

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, APRIL 11, 2013

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

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

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

CONFERENCE WITH LABOR NEGOTIATOR (Govt. Code §54957.6)

Negotiator: Lisa Murphy, Administrative Services Director
Employee Organizations: Capitola Police Officers Association and
Capitola Police Captains.

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

City of Capitola et al. v. 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: McGregor Drive, APN 036-341-02 (City of Capitola, Owner)
City Negotiator: Public Works Director
Negotiating Parties: City and Soquel Creek Water District
Under Negotiation: Real Property Lease/Sale

CAPITOLA CITY COUNCIL – Thursday, April 11, 2013

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

A. Proclamation honoring Janet Glazer, member of the Seniors Council of Santa Cruz & San Benito Counties Board of Directors.

B. Mayor's Proclamation designating April 2013 as "National Poetry Month".

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 February 28, 2013, and March 14, 2013.

RECOMMENDED ACTION:

Approve Minutes.

CAPITOLA CITY COUNCIL – Thursday, April 11, 2013

- B. Consideration of 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 and adding Section 17.39.110 pertaining to Planned Development District Regulations. [2nd Reading]; and adopt a Resolution authoring submittal of amendments to the Local Coastal Program.
RECOMMENDED ACTION:
Adopt Ordinance and Resolution.
- C. Consideration of a three-year contract with the City of Santa Cruz for \$68,500 annually, to perform lifeguard services on the beaches in the City of Capitola.
RECOMMENDED ACTION:
Approve contract.
- D. Consideration of sending a letter in support of Senate Bill No. 510 pertaining to Mobilehome Park Conversions.
RECOMMENDED ACTION:
Approve sending a letter of support.
- E. Receive Planning Commission Action Minutes for the Regular Meeting of April 4, 2013.
RECOMMENDED ACTION:
Receive Minutes.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS

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

- A. Presentation by Henry Castaniada, Superintendent of Soquel Union Elementary School District, and consideration of City Council support in endorsing Measure S, a school funding measure.
RECOMMENDED ACTION:
Council discretion.
- B. Consideration of the Lower Pacific Cove Parking Lot Project financing and Village pay station deployment.
RECOMMENDED ACTION:
1) Adopt Resolution; and 2) Approve purchase of pay stations and trial of single space meters; and 3) Approve budget amendment.
- C. Receive informational report on firearms, and consideration of a letter in support of Senate Bill No. 53 pertaining to ammunition purchase permits.
RECOMMENDED ACTION:
Receive report and approve sending a letter of support.
- D. Consideration of approving the revised Cellular Telephone Use Policy (Policy V-9).
RECOMMENDED ACTION:
Adopt Policy.

10. COUNCIL/STAFF COMMUNICATIONS

CAPITOLA CITY COUNCIL – Thursday, April 11, 2013

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.

13. ADJOURNMENT

Adjourn to the next Regular Meeting of the City Council on Thursday, April 25, 2013 at 7:00 PM, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

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

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

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

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

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

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

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



CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 11, 2013

FROM: OFFICE OF THE CITY CLERK

SUBJECT: APPROVAL OF THE CITY COUNCIL MEETING MINUTES OF FEBRUARY 28, 2013,
AND MARCH 14, 2013

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. February 28, 2013, Regular City Council Minutes;
2. March 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 MINUTES
THURSDAY, FEBRUARY 28, 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)

City of Capitola, et al. vs. 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: 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.

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

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2. PRESENTATIONS

- A. Certificate of appreciation to Karl Forest who served on the Commission on the Environment.
- B. Certificate of appreciation to Anne Nicol and Peter Roddy who served on the Traffic & Parking Commission.

Certificates of appreciation were received.

Police Chief Escalante requested a moment of silence for Sergeant Butch Baker and Detective Elizabeth Butler, both officers from the City of Santa Cruz recently passed away.

Council Member Harlan provided recognition regarding former Council Member and Mayor Phillip J. Walker, who recently passed away.

3. REPORT ON CLOSED SESSION

Assistant City Attorney Paterno reported that prior to tonight's Closed Session the City Council made the findings to add 2 letters to the Closed Session Agenda that were provided after the posting of the Agenda. The letters were regarding threatening litigation related to the proposed Urgency Firearms Ordinance (***Item 9.B.***); there was no reportable action. Council had conference with the City Manager (City's labor negotiator) regarding negotiations with the Capitola Police Officers Association and Capitola Police Captains; no reportable action was taken. The Council received an update regarding existing litigation related to the City of Capitola, et al. vs. and Lexington Insurance Company, however took no reportable action. The City Council did not discuss the real property negotiation item as listed on the Closed Session Agenda. The City Council did not discuss the initiation of litigation related to the County of Santa Cruz regarding the Noble Gulch pipe failure. The Council did discuss the initiation of litigation regarding the Property Tax Administrative Fee Dispute with the County of Santa Cruz; however, they took no reportable action.

4. ADDITIONS AND DELETIONS TO AGENDA (none provided)

5. PUBLIC COMMENTS

Brian Peoples, Aptos High School Rail-to-Trail Club (Club) representative, stated that the Club is promoting the development of a pedestrian/bicycle trail instead of a tourist train in Santa Cruz County.

Michael Lynn, owner of the Bay Bar and Grill, reported on recent criminal activity that occurred in the Esplanade.

6. COUNCIL/STAFF ANNOUNCEMENTS

Council Member Termini stated that on March 5, 2013, Shadowbrook Restaurant is having a fund raiser to benefit the American Red Cross. In addition, there will be a Soroptimist Violet Richardson Award presented to a local citizen on March 13, 2013, at the Seascape Resort.

Mayor Harlan stated that she attended the February 27, 2013, Santa Cruz Business Council Annual Meeting along with Council Members Bottorff and Termini. In addition, on March 11, 2013, the Monterey Division of the League of California Cities will be having a division meeting at Seascape Resort.

7. BOARDS, COMMISSIONS AND COMMITTEES APPOINTMENTS

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

This item was continued.

8. CONSENT CALENDAR

Public Works Director Jesberg requested that Item 8.C. be pulled for discussion.

- A. Approval of City Check Register Reports dated January 18, 2013; January 25, 2013; February 1, 2013; February 8, 2013; and February 15, 2013.
- B. Adoption of Ordinance No. 980 amending Municipal Code Sections 8.38 of the Capitola Municipal Code Pertaining to Smoking Regulations [2nd Reading].
- C. Consideration of City Hall tree replacement.
- D. Authorization for the City Manager to recruit for the position of Senior Planner.

ACTION Motion made by Council Member Termini, seconded by Council Member Norton, to approve Items 8.A, 8.B., and 8.D. on the Consent Calendar. The motion was approved unanimously.

- C. Consideration of City Hall tree replacement.

Public Works Director Jesberg stated this item was pulled to notify the Council that staff requires additional time to discuss the planting of trees at Jade Street Park with the Soquel Union Elementary School District, and that the mitigation trees may need to be planted elsewhere.

ACTION Motion made by Council Member Termini, seconded by Council Member Norton, to approve the City Hall tree replacement. The motion was approved unanimously.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS

- A. Update on Lower Pacific Cove Parking Lot Project.

Update received.

- B. Consideration of an Urgency Ordinance revising and supplementing current Capitola Municipal Code Chapter 5.32 Firearms and Ammunition Regulations, and adopting regulations pertaining to the possession of firearms on City property and public property in the vicinity of schools.

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The following residents spoke against the proposed Urgency Ordinance.

Steve Wasylo
Shawd DeWitt
Colleen Clark
Ema DeWitt

Bob Thomas, Outdoor World owner, provided information regarding services related to firearms provided at Outdoor World.

ACTION

Revised Urgency Ordinance No. 979 was approved. The motion carried with the following vote: AYES: Council Members Norton, Bottorff, Storey and Termini. NOES: Mayor Harlan. ABSENT: None. ABSTAIN: None.

The City Council adopted Urgency Ordinance No. 979 as provided in the February 28, 2013, City Council packet with the following revisions to the draft Ordinance:

Revising the following draft text (strikeout) in Section 5.32.020 – Definitions:

~~“Firearms dealer” includes any business that sells, leases, transfers, advertises, or exposes for sale, lease, or transfer any firearm-or-ammunition-for-firearms”.~~

Adding the following text (underline) to Section 5.32.070 – Business Site Standards:

“The business location must be in the Community Commercial zoning district, and in compliance with city building and fire codes and regulations”.

Removing the following draft text (strikeout) to Section 5.32.070 – Business Site Standards:

~~“The business site must be located at least 2,000 feet from any other existing business with a firearms license”.~~

Removing the following draft text (strikeout) to Section 5.32.160. Number of Retail Firearms Dealers Permitted:

~~“A maximum of two retail firearms dealers shall be allowed to operate in the City of Capitola”.~~

Removing the following draft text (strikeout) to Section 5.32.170 Gun Shows:

~~“Gun shows or events shall be prohibited in the City. For purposes of this section, a gun show or event is any event at which firearms, as defined in section 5.32.020.A, are sold, transferred, leased or offered or advertised for sale, transfer or lease. This section shall not apply to the display or sale of antique firearms as defined in section 5.32.020.A”.~~

Revising the following draft text (strikeout) to Section 5.32.180 Existing Firearms Dealers:

~~“Firearms dealers legally transacting business in the city as of February 28, 2013, who had previously obtained a firearms dealer permit shall comply with all provisions of this Code, with the exception of 5.32.070 (G). If such existing dealers are located outside the Community Commercial District, such uses shall be considered legal nonconforming uses. If an existing firearms dealer increases its firearms or ammunition display area over that which it maintained as of February 28, 2013, the firearms dealer shall no longer be considered a legal nonconforming use. Such firearms dealers shall thereafter comply with all requirements of this Code”.~~

Revising the following draft text (strikeout and underline) to Section 5.32.190 Firearms Security:

~~“Every owner of a firearm in the city shall be required to assure that each such firearm is locked follow the safest and secured when he or she is not in actual possession of the firearm so as to assure, to best practices for the extent reasonable, that no other person may access or use that firearm outside securing of firearms in the presence of the owner home”.~~

- C. Consideration of approving the revised Board, Commission and Committee Guide Procedures, the City Manager Memorandum regarding public meeting teleconferencing procedures, and the Teleconferencing Requests Form.

ACTION The City Council unanimously approved this item.

10. COUNCIL/STAFF COMMUNICATIONS

General Plan Coordinator Westman stated that at the March 7, 2013, Planning Commission meeting a new Toyota Auto Dealership in the City was considered.

11. CITY COUNCIL/TREASURER COMMENTS/COMMITTEE REPORTS

12. ADDITIONAL MATERIALS

13. ADJOURNMENT

Mayor Harlan adjourned the meeting at 10:00 PM to the next Regular Meeting of the City Council on Thursday, March 14, 2013, at 7:00 PM, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

Stephanie Harlan, Mayor

ATTEST:

_____, CMC
Susan Sneddon, City Clerk

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**CAPITOLA CITY COUNCIL
REGULAR MEETING ACTION SUMMARY
THURSDAY, MARCH 14, 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)

City of Capitola, et al. vs. 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 Avenue, 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

County of Santa Cruz — Property Tax Administrative Fee Dispute.

Mayor Harlan noted that there was no one in the audience; therefore, the City Council recessed at 5:32 PM to the City Manager’s Office.

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

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

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

2. PRESENTATIONS

Proclamation honoring Janet Glazer, member of the Seniors Council of Santa Cruz & San
Benito Counties Board of Directors.

Proclamation was received.

3. REPORT ON CLOSED SESSION

City Attorney Barisone reported that City Manager Goldstein presented real property negotiations in relation to 201 Monterey Avenue, Capitola (APN 035-18-506); the City Council provided direction to not pursue this item. Mr. Barisone advised the City Council about the initiation of litigation between the City and the County of Santa Cruz regarding a Property Tax Administrative Fee Dispute. He stated that the matter has been settled; therefore, Santa Cruz County will be paying the City approximately \$109,000 in property taxes that were withheld prior to the potential lawsuit against the County of Santa Cruz. Mr. Barisone stated that there was no reportable action taken on the remaining items listed on the Closed Session Agenda. [520-25]

4. ADDITIONS AND DELETIONS TO AGENDA (None provided)

5. PUBLIC COMMENTS

Brian Peoples, Aptos High School Rail-to-Trail Club representative, provided a communication and asked that the City support using a portion of the railroad property which Santa Cruz County Regional Transportation purchased for a bicycle/pedestrian trail.

Michael Lynn, owner of the Bay Bar and Grill, stated that there will be an event this evening at the Bay Bar and Grill to raise funds for David Ariola.

Marilyn Garrett, local resident, opposes wireless technology.

Jane Schwickerath, Board Member of the Advisory Council to the Area Agency on Aging of the Santa Cruz and San Benito Counties, provided the annual Senior Needs Assessment Report.

6. COUNCIL/STAFF ANNOUNCEMENTS

Council Member Norton, as the City's representative on the Regional Transportation Commission (RTC) for Santa Cruz County, provided an update. He stated that the RTC is putting \$5 million towards improvements to the railroad trestles along the rail corridor.

Council Member Termini complimented Soquel Creek Water District for notifying customers of potential water leaks.

Mayor Harlan stated she attended the Second Harvest Annual Awards Dinner at Hotel Paradox in Santa Cruz. She encouraged the public to donate to the Baker/Butler Scholarship Fund in memory of Santa Cruz Police Detective Sgt. Loran "Butch" Baker and Detective Elizabeth Butler.

7. BOARDS, COMMISSIONS AND COMMITTEES APPOINTMENTS

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

This item was continued.

12378 CAPITOLA CITY COUNCIL ACTION SUMMARY – Thursday, March 14, 2013

8. CONSENT CALENDAR

ACTION **Motion made by Council Member Storey and seconded by Council Member Termini to approve the Consent Calendar. The vote was unanimous.**

- A. Consideration of approving the City Council Minutes of the Regular Meetings of January 24, 2013, and February 14, 2013.
- B. Receive Planning Commission Action Minutes for the Regular Meeting of March 7, 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.
- D. Consideration of a project to remove and dispose of mobile home coaches and related debris from the Pacific Cove Mobile Home Park; approval of plans, specifications, and estimate of costs; and authorization for the Public Works Director to advertise for bids, setting the bid opening date for April 10, 2013.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS

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

Ben Noble, DC&E, provided an update on the draft land-use element.

The following residents provided comments regarding the draft Land Use Element:

Nels Westman
Earl Skelton
Lou Fineman
Ron Graves
Bruce Arthur
Molly Ording
Steve Thomas

Staff received direction from the City Council to simplify "Appendix A – Hotel Guiding Principles."

- B. Discussion regarding City Council Abstentions.

There was City Council consensus for staff to bring back to Council for approval a draft policy/procedure regarding City Council Abstentions.

10. COUNCIL/STAFF COMMUNICATIONS

11. CITY COUNCIL/TREASURER COMMENTS/COMMITTEE REPORTS

13. ADJOURNMENT

Mayor Harlan adjourned the meeting at 10:15 PM 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.

Stephanie Harlan, Mayor

ATTEST:

Susan Sneddon, City Clerk, CMC



CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 11, 2013

FROM: OFFICE OF THE CITY CLERK

SUBJECT: ORDINANCE AMENDING SECTIONS TO THE CAPITOLA MUNICIPAL CODE
SECTION 17.39 REGARDING PLANNED DEVELOPMENTS [2ND READING]

RECOMMENDED ACTION: Approve for a second reading the proposed amendments to Section 17.39 of the Zoning Ordinance regarding Planned Development [2nd Reading]; and adopt a Resolution authoring submittal of amendments to the Local Coastal Program.

BACKGROUND: The draft Ordinance amending Section 17.39 is presented for a second reading.

DISCUSSION: The City Council approved the first reading of this Ordinance at the Council meeting held on March 28, 2013.

The proposed Ordinance is before the City Council for its second reading and final adoption. If adopted, the Ordinance will take effect in thirty (30) days.

FISCAL IMPACT: None

ATTACHMENTS

1. March 28, 2013 City Council meeting minute excerpt.
2. Draft Ordinance.
3. Draft Resolution authorizing submittal to the California Coastal Commission.

Report Prepared By: Susan Sneddon, CMC
City Clerk

Reviewed and Forwarded
By City Manager: 

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**CITY OF CAPITOLA
CITY COUNCIL MINUTE EXCERPT
REGULAR MEETING OF THE CAPITOLA CITY COUNCIL
MARCH 28, 2013**

9. GENERAL GOVERNMENT/PUBLIC HEARINGS

- C. Consideration of 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. The Planning Commission considered this amendment at the March 7, 2013 meeting and unanimously recommended approval. [740-30]

ACTION

Motion made by Council Member Termini, seconded by Council Member Storey, to introduce an Ordinance to amend 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. The motion carried unanimously with the following vote: AYES: Council Members Norton, Storey, Bottorf, Termini, and Mayor Harlan. NOES: None. ABSENT: None. ABSTAIN: None.

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ORDINANCE NO. 981

AN ORDINANCE OF THE CITY OF CAPITOLA 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

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CAPITOLA AS FOLLOWS:

Section 1. Section 17.39.020 of the Capitola Municipal Code is hereby amended to read as follows:

17.39.020 Standards and requirements.

The following provisions shall apply in a PD district:

A. A PD district may be established on parcels of land which are suitable for, and of sufficient size to be planned and developed in a manner consistent with the purposes of this chapter and the objectives of this title. No PD district shall include less than four acres of contiguous land unless the planning commission, or and the city council on appeal from the planning commission, finds that property of less than four acres is suitable as a PD district by virtue of its unique historical character, topography, land use or landscaping features.

B. No ordinance establishing a PD district shall be adopted by the city council unless there is on file with the city written consent of every property owner within such district at the time of adoption of the ordinance.

C. Standard for area, coverage, density, yard requirements, parking and screening for PD district uses shall be governed by the standards of the residential, commercial, or industrial zoning district(s) most similar in nature and function to the proposed PD district use(s), as determined by the planning commission, or the city council on appeal from the planning commission. Standards for public improvements shall be governed by the applicable ordinances and laws of the city. Exceptions to these standards may be granted by the planning commission, or the city council on appeal from the planning commission, ~~and the city council are possible when these bodies find upon a finding~~ that such exceptions encourage a desirable living environment and are warranted in terms of the total proposed development or unit thereof. (Ord. 388 § 13.02, 1975)

Section 2. Section 17.39.030 of the Capitola Municipal Code is hereby amended to read as follows:

17.39.030 Preliminary development plan approval.

The applicant shall submit a preliminary development plan to the planning commission for ~~an~~ approval in principle and the planning commission shall ~~so approve, following~~ consider the preliminary development plan at a public hearing, prior to the submission of a PD district rezoning application. The planning commission's decision to approve, conditionally approve or disapprove the preliminary development plan shall be appealable to the city council. The PD district rezoning application will not be considered absent a prior preliminary development plan approval. The filing fee for approval in principle shall be established by city council resolution. The tentative written consent of all property owners within the proposed PD district shall be on file with the city before staff study of a preliminary development plan is commenced. Approval in principle of the preliminary development plan shall be limited to general acceptability of the land uses proposed and their interrelationship, and shall not be construed to endorse precise location of uses, configuration of parcels, or engineering feasibility. Any preliminary development plan and text shall be prepared and endorsed by an architect, landscape architect or qualified urban planner and shall include the following information, as applicable, presented in a general, schematic method:

- A. Proposed land uses, population densities and building intensities;
- B. Proposed circulation pattern, indicating both public and private streets;
- C. Proposed parks, playgrounds, school sites, general landscaping and other open spaces;
- D. A market analysis or other acceptable data or statement of proposed commercial uses, if the property is not zoned for commercial purposes at the time of submittal of the preliminary development;
- E. Delineation of the units to be constructed in progression, if any;
- F. Relation to future land use in surrounding area and general plan.
~~(Ord. 388 § 13.03, 1975)~~

Section 3. Section 17.39.040 of the Capitola Municipal Code is hereby amended to read as follows:

17.39.040 General development plan and schedule approval.

- A. If from the facts presented, the planning commission, or the city council on appeal from the planning commission, is able to approve, in

principle, the preliminary plan, with modifications as required by the planning commission, or the city council on appeal from the planning commission, the applicant may submit for rezoning classification. Otherwise, the preliminary development plan shall be denied.

B. Together with the application for rezoning classification, the applicant shall submit the following documents and supporting evidence, prepared and endorsed by the qualified professional team, which shall include an architect, civil engineer and landscape architect as appropriate:

1. A map with seven prints of a survey of the property showing existing features of the property, including specimen trees, structures, streets, easements, utility lines and land use;
2. A map with twelve prints of a general development plan which shall be in conformance with the approved preliminary development plan, showing, as appropriate, all the information required on the preliminary development plan; the approximate locations and proposed density of dwelling units; nonresidential building intensity; and the land use considered suitable in accordance with adjacent properties;
3. A schedule for the development of units to be constructed in progression and a description of the design principles for buildings and streetscapes; estimated residential population by type of dwelling for each unit in of the PD district; estimated nonresidential population; proposed retail sales area and economic justification; anticipated timing for each unit; and standards for height, open space, building intensity, population density, and public improvements proposed for each unit of development;
4. Proposed type of construction, building height and area of each building or structure, and proposed distances between buildings and structures and distances to property lines shall be submitted in the general development plan;
5. Evidence that the applicant has sufficient control over the land to effectuate the proposed plan;
6. Site development and engineering feasibility studies as necessary. ~~(Ord. 388 § 13.04, 1975)~~

Section 4. Section 17.39.050 of the Capitola Municipal Code is hereby amended to read as follows:

17.39.050 Findings required.

The planning commission, after a public hearing, shall make a recommendation to approve, conditionally approve or deny may

Item #: 8.B. Attach 2.pdf

ORDINANCE NO. 981

~~recommend the~~ establishment of a PD district, ~~and the~~ The city council, after a public hearing, may by ordinance, establish a PD district, provided they city council finds that the facts submitted with the application and presented at the hearings establish that:

A. The proposed PD district, or a given unit thereof, can be substantially completed within two years of the establishment of the PD district;

B. That the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under other zoning districts;

C. That any exception from standard ordinance requirements is warranted by the design and amenities incorporated in the general development plan, ~~in accord with adopted policy of the planning commission and the city council~~;

D. That the PD district and general development plan are compatible with the general plan of the city and the City's local coastal program. (~~Ord. 685 § 4, 1989; Ord. 388 § 13.05, 1975~~)

In formulating its recommendation to the city council, the planning commission shall advise the city council with respect to each of the above-listed findings.

A. C. Standard for area, coverage, density, yard requirements, parking and screening for PD district uses shall be governed by the standards of the residential, commercial, or industrial zoning district(s) most similar in nature and function to the proposed PD district use(s), as determined by the planning commission. Standards for public improvements shall be governed by the applicable ordinances and laws of the city. Exceptions to these standards by the planning commission and the city council are possible when these bodies find that such exceptions encourage a desirable living environment and are warranted in terms of the total proposed development or unit thereof. (Ord. 388 § 13.02, 1975)

Section 5. Section 17.39.060 of the Capitola Municipal Code is hereby amended to read as follows:

17.39.060 Planning commission and city council action.

A. If from the facts presented, the planning commission, or the city council on appeal from the planning commission, is unable to make the necessary findings, the application shall be denied.

B. In taking action, the planning commission may ~~deny-recommend denial of~~ the general development plan and general development schedule as submitted, ~~or~~ may recommend approval of said plan ~~and schedule-and schedule~~ subject to specific amendments, or may recommend approval.

ORDINANCE NO. 981

C. Major changes in the general development plan shall be considered the same as a change in the zoning map and shall be made in accordance with the provisions of this chapter.

D. If no development has occurred to effectuate a PD district development within two years after the district is created, the planning commission shall review the ~~PD approval action~~ and determine whether or not the continuation of ~~the subject a given~~ PD district is in the public interest. The planning commission's determination may be appealed to the city council. Absent affirmative action by the planning commission, or the city council on appeal from the planning commission, the PD approval shall automatically expire.

E. At the time of adopting any ordinance establishing a PD district, the city council shall make appropriate arrangements with the applicant; ~~to which will~~ insure the accomplishment, at the scheduled times, of the public improvements and grants of easement shown on the approved general development plan.

F. Fire zones shall be designated at the time of rezoning and such zones shall be delineated on the general development plan. ~~(Ord. 388 § 13.06, 1975)~~

Section 6. Section 17.39.080 of the Capitola Municipal Code is hereby amended to read as follows:

17.39.080 Conditional uses.

All uses in a PD district are conditional uses, subject to the securing of a use permit as provided in Chapter 17.60. Use permit plans shall be prepared and endorsed by a qualified professional team, which shall include an architect, landscape architect and civil engineer; ~~as and~~ appropriate; The use permit application and shall include but not necessarily be limited to the following:

A. Site plan; showing buildings(s), various functional use areas, circulation, and their relationships;

B. Preliminary buildings plans including floor plans and exterior elevations;

C. Landscaping plans;

D. Engineering plans; including site grading, street improvements, drainage and public utility extensions; as necessary;

E. Minor changes may be approved by the planning commission, or the city council on appeal from the planning commission, provided ~~ing~~ the changes are ~~is~~ in accord with the intent expressed in the general development plan;

Item #: 8.B. Attach 2.pdf

ORDINANCE NO. 981

F. Notation of aAny activity which includes any significant alteration of an historic feature;

~~G.~~ Within the coastal zone, any change in regulations concerning use or intensity of use for the planned development district shall require an LCAP amendment. (~~Ord. 685 § 5, 1989; Ord. 525 § 5 (part), 1982; Ord. 388 § 13.08, 1975~~)

Section 7. Section 17.39.110 ~~is~~ hereby added to the Capitola Municipal Code to read as follows:

"Section 17.39.110. Appeals.

All appeals to the city council taken pursuant to this chapter shall be subject to the requirements, and conducted in accordance with the procedures, set forth in Chapter 2.52 of this code.

Section 8. This ordinance shall take effect and be in full force on April 21, 2013.

This ordinance was introduced on the 28th day of March 2013, and was passed and adopted by the City Council of the City of Capitola on the 11th day of April, 2013, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Stephanie Harlan, Mayor

ATTEST:

_____, CMC
Susan Sneddon, City Clerk

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA AUTHORIZING
THE CITY MANAGER TO SUBMIT LOCAL COASTAL PROGRAM AMENDMENT TO THE
CALIFORNIA COASTAL COMMISSION FOR CERTIFICATION**

WHEREAS, the City's Local Coastal Program (LCP) was certified by the California Coastal Commission in June of 1981, and updated in October of 2001, December 9, 2004, January 13, 2005, and November 9, 2006; and

WHEREAS, the Capitola Planning Commission conducted a duly noticed public hearing on March 7, 2013, and made recommendations to the City Council who held a noticed public hearing on March 28, 2013 to consider the recommended amendments to the municipal code which would require an LCP Amendment for those properties located within the Coastal Zone; and

WHEREAS, at its meeting of March 28, 2013, the City Council passed the proposed ordinance to a second reading, on April 11, 2013. On April 11, 2013 the City passed for a second reading an ordinance of the City of Capitola amending Sections 17.39.020, 17.39.030, 17.39.040, 17.39.050, 17.39.060 and 17.39.080 and adding Section 17.39.110 to the Capitola Municipal Code pertaining to Planned Development District Regulations; and

WHEREAS, the City Council reviewed and found these Local Coastal Program amendments exempt from CEQA; and

WHEREAS, the City of Capitola intends to carry out this amendment to its LCP in a manner fully consistent with the California Coastal Act; and

WHEREAS, this LCP Amendment is consistent with the Local Coastal Land Use Plan and the Coastal Act; and

WHEREAS, This LCP Amendment, as drafted, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Program and will take effect upon certification by the Coastal Commission and final acceptance by City Council.

NOW, THEREFORE, BE IT FUTHER RESOLVED, by the City Council of the City of Capitola that the Local Coastal Program Amendments as presented in Exhibit "1", attached hereto and made a part hereof, are hereby adopted in full conformance with the City of Capitola General Plan, the City of Capitola Local Coastal Program, and the provisions of the California Coastal Act and is authorized for submittal to the Coastal Commission for certification.

BE IT FURTHER RESOLVED, that the City Manager or his designee is directed to submit to the said amendment to the Coastal Commission LCP Amendment to the California Coastal Commission for its review and certification. If the Coastal Commission approves the amendment package, it will take effect automatically upon Coastal Commission approval. If the Coastal Commission modifies the amendment package, only the modifications will require formal action by the City of Capitola.

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 11th day of April, 2013, by the following vote:

AYES: None

NOES: None

ABSENT: None

ABSTAIN: None

Stephanie Harlan, Mayor

ATTEST:

_____, CMC
Susan Sneddon, City Clerk

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CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 11, 2013

FROM: POLICE DEPARTMENT

SUBJECT: APPROVAL OF A CONTRACT WITH THE CITY OF SANTA CRUZ TO PERFORM LIFEGUARD SERVICES IN THE CITY OF CAPITOLA

RECOMMENDED ACTION:

- 1) Approve a three-year contract for \$68,500 annually between the City of Santa Cruz and the City of Capitola to perform lifeguard services on the beaches in the City of Capitola.
- 2) Authorize the City Manager to sign a contract between the City of Santa Cruz and the City of Capitola to perform lifeguard services commencing May 2013 thru September 2015.

BACKGROUND: In 2012, the Capitola City Council authorized the City Manager to sign a contract between the City of Santa Cruz and the City of Capitola to provide lifeguard services on Capitola beaches from May 2012 thru September 2012. The City of Santa Cruz Fire Department (SCFD) provides lifeguard services through their Marine Safety Division. The Lifeguard Program protects swimmers, surfers, and waders in the Capitola Beach area during the summer months and the surrounding weekends. Lifeguards respond to water rescues, major and minor first aid calls, basic law enforcement issues on the beach and various animal calls, in addition to educating the public on a variety of marine environmental issues.

The one-year contract allowed both the City of Capitola and SCFD a sufficient evaluation period to determine if a continued relationship is warranted and to allow for adjustments to be made in future agreements should the City of Capitola and City of Santa Cruz desire a continued relationship.

Capitola selected SCFD as the ideal contracting partner given the close proximity to Capitola, SCFD's experience in managing similar beach geography and demographics, and expertise in lifeguard service provision.

Based upon an evaluation of community needs, priorities and available resources, and the experience of SCFD managing the Lifeguard Program at Capitola Beach, staff is recommending that the City pursue a three-year contract for SCFD to maintain responsibility for the Capitola summer Lifeguard Program in its entirety.

DISCUSSION: Under the proposed agreement, SCFD will assume full responsibility for lifeguard operations of Capitola Beach, not including the Junior Lifeguard Program, for the next three years beginning in May of 2013. The City of Santa Cruz will provide these services during the period between Memorial Day and Labor Day weekends. A billing rate will be established and approved by both cities in advance for services rendered outside that timeframe. Additionally, should the lifeguard staffing needs at Capitola exceed the contracted staffing prescribed in the contract; the City of Santa Cruz will be able to open the contract for a re-evaluation with Capitola.

Item #: 8.C. Staff Report.pdf

AGENDA STAFF REPORT APRIL 11, 2013
LIFEGUARD SERVICES IN THE CITY OF CAPITOLA

The City of Santa Cruz will assume the entire Capitola Lifeguard Program including recruiting, hiring, training, scheduling, organizing, administration, payroll and equipment. SCFD is sufficiently staffed to absorb management and oversight of the Program at Capitola. SCFD will hire and train additional lifeguards to staff the Capitola beach.

SCFD will staff the two existing Capitola lifeguard towers and provide one roving Beach Lifeguard II for supervisor support on summer weekdays. During weekends, holidays and periods of high surf advisory, SCFD will staff additional roving lifeguards on the beach as precautionary measures dictate. SCFD will maintain a Personal Water Craft at the Capitola Wharf to respond to incidents in the immediate vicinity or mutual aid requests by an allied agency, depending on the availability of a certified operator.

FISCAL IMPACT: The City of Capitola budgeted \$90,700 to operate its own Lifeguard Program prior to contracting for Lifeguard services. The actual cost to operate our own Lifeguard Program for Fiscal Year 2011/2012 was \$76,800. This did not include projected equipment and training costs needed to bring the Program into compliance. The final approved one-year amended contract for Fiscal Year 2012/2013 was \$69,000. The proposed three-year contract starting in May 2013 is \$68,500.

ATTACHMENT:

1. Proposed Contract

Report Prepared By: Rudy Escalante
Chief of Police

**Reviewed and Forwarded
By City Manager** 

AGREEMENT FOR LIFEGUARD SERVICES

This Agreement for Lifeguard Services (Agreement) shall be effective as of May 1, 2013 and is made and entered into by and between the City of Capitola, a general law city and municipal corporation (Capitola) and the City of Santa Cruz, a charter city and municipal corporation (Santa Cruz), (hereinafter collectively referred to as Parties), both of which are public entities organized and existing under and by virtue of the laws of the State of California.

RECITALS

WHEREAS, each Party to this Agreement provides lifeguard services at certain beaches within their respective jurisdictional limits (excluding beaches supervised and operated by the State of California);

WHEREAS, due to their proximity to one another and similar organization, the Parties wish to cooperate in the provision of lifeguard services;

WHEREAS, all employees of Parties performing services pursuant to this Agreement shall remain employees of their respective jurisdiction and no express or implied employment contract exists for the same as a result of this Agreement;

WHEREAS, this Agreement provides a cost-effective option for sharing said lifeguard service functions.

NOW THEREFORE, the Parties agree as follows:

1. SERVICES. Commencing May 1, 2013, Santa Cruz lifeguards and lifeguard supervisors, employed as temporary seasonal employees by the City of Santa Cruz Fire Department, will provide lifeguard and lifeguard management services to Capitola at the Capitola Main Beach pursuant to the terms and conditions hereinafter set forth.

2. TERM. The term of this Agreement will commence on May 1, 2013, and terminate on September 5, 2015. The term of this Agreement may be extended annually by mutual agreement of the Parties evidenced in writing as an amendment to this Agreement.

3. SCHEDULE. The lifeguard and lifeguard management services provided by Santa Cruz pursuant to this Agreement will be provided in accordance with the following schedule and at the following levels of service.

- A. Memorial Day Weekend through Labor Day Weekend, beginning in May 2013 and concluding in September 2015:

Weekday Schedule: Two lifeguards, one lifeguard per tower, eight hours per day (on average); and one lifeguard supervisor on a rover/break basis, six to eight hours per day (on average).

Weekend/Holiday Schedule: Two lifeguards, one per lifeguard tower, eight hours per day (on average); one lifeguard supervisor on a rover/break basis, six to eight

hours per day (on average); and one additional lifeguard on a rover/break basis, four to six hours per day (on average).

Total Budgeted Hours: Santa Cruz will provide in total approximately 3300 hours of service at Capitola main beach on an annual basis between Memorial Day and Labor Day

4. TRAINING/LEVEL OF SERVICE. Santa Cruz shall train all lifeguards and lifeguard supervisors. The Santa Cruz Fire Department, through its Marine Fire Captain, shall be responsible for all such training. At a minimum said training shall include twenty hours of recurrent training in lifeguarding, first aid and cardiopulmonary resuscitation (CPR). The Santa Cruz Fire Department Marine Safety Division is a United States Lifesaving Association (USLA) advanced agency member and all training, lifeguard and lifeguard management service provided pursuant to this Agreement shall adhere to and comply with USLA training, equipment and deployment standards. The operational level of lifeguard and lifeguard management service provided by Santa Cruz to Capitola pursuant to this Agreement shall correspond to the level of operational service that Santa Cruz provides at Main Beach and Cowell's Beach in the City of Santa Cruz and similarly all lifeguard and lifeguard management operational procedures and practices employed by Santa Cruz in Capitola shall correspond to those employed by Santa Cruz in the City of Santa Cruz.

5. EQUIPMENT. Capitola will provide two lifeguard towers to be placed on the Capitola Main Beach at locations designated by the Santa Cruz Marine Safety Captain. Santa Cruz shall provide all other necessary equipment including one personal watercraft to be stored at either the Capitola Main Beach or the Capitola Wharf. Said personal watercraft will be deployed pursuant to direction provided by the Santa Cruz Fire Department only and may be used by lifeguards, lifeguard supervisors and other Santa Cruz Fire Department personnel to respond to incidents in the immediate Capitola vicinity or outside of the vicinity in connection with a mutual aid request from an allied agency depending upon the availability of a certified operator. Necessary equipment will be delivered by the Santa Cruz Fire Department to the Capitola Main Beach on a Santa Cruz Fire Department lifeguard truck which may respond to the Capitola Main Beach, as necessary, on both a periodic and emergency basis.

6. COMPENSATION. For all lifeguard and lifeguard supervisor services provided by Santa Cruz pursuant to this Agreement, including all equipment used by Santa Cruz in connection therewith and all expenses incurred by Santa Cruz in connection therewith, Capitola shall pay Santa Cruz a total of \$68,500 on an annual basis. Said \$68,500 shall be remitted by Capitola to Santa Cruz in a single lump sum payment due and payable following the Labor Day Weekend. Upon the completion of services provided by Santa Cruz pursuant to this Agreement, Santa Cruz shall submit a \$68,500 invoice to Capitola. Within thirty days of its receipt of said invoice, Capitola shall satisfy the invoice in full. Santa Cruz shall have the right to reopen this agreement to negotiate an adjustment to the compensation herein called for should, for any reason, Capitola beach staffing requirements set forth in Section 3 prove inadequate thereby necessitating an increase in the number of lifeguards/lifeguard supervisors assigned to Capitola or an increase in the number of hours, over 3300 hours, during which lifeguards and/or lifeguard supervisors are assigned to Capitola. Any such notice of reopener from Santa Cruz to Capitola will be accompanied by a written request for a specified amount of additional compensation and documentation which demonstrates the increase in assigned personnel or hours of service

forming the basis for the request. To the extent feasible, Santa Cruz representatives shall meet and confer with Capitola representatives before said increase in staffing or hours of service goes into effect. In the case of such a reopener, Capitola reserves the right to negotiate for a reduction in service during the remainder of the current lifeguard service season in lieu of a compensation increase.

7. EMPLOYMENT STATUS. All lifeguard personnel hired and employed by Santa Cruz in connection with this Agreement, shall be and remain employees of Santa Cruz, and shall at all times be subject to the direct supervision and control of the Santa Cruz Fire Department. Santa Cruz shall therefore have full responsibility for payment of all compensation to said personnel, including provision of health plan and other benefits consistent with Santa Cruz policies and/or collective bargaining agreements. Santa Cruz shall further be responsible for all administrative employment matters concerning said personnel, including compliance with requirements for any and all applicable State and Federal income tax withholding, State and Federal unemployment and disability insurance withholding and contributions, social security tax withholding and contributions, worker's compensation coverage obligations, wage and hours obligations, Immigration Reform and Control Act obligations, and any other administrative employment requirements. Nothing in this Agreement shall be intended or construed to create an express or implied employer-employee relationship between Capitola and any of the Santa Cruz Fire Department personnel providing services pursuant to this Agreement. Santa Cruz acknowledges that as employer, it is and continues to be responsible for taking any necessary action, including disciplinary action, with respect to said personnel. As necessary, Capitola shall cooperate fully with Santa Cruz and provide the necessary assistance in reasonably investigating and supporting, through witnesses and documents, facts which may serve as the basis for Santa Cruz taking any disciplinary or corrective action.

8. APPLICABLE STATUTES, ORDINANCES AND REGULATIONS. In performing the lifeguard services required under this Agreement, Santa Cruz shall comply with and enforce all applicable federal, state, and Capitola statutes, ordinances and regulations. Nothing in this Agreement shall be construed in any way to reduce or detract from the obligations of Santa Cruz employees to comply with the policies and procedures of Santa Cruz, including but not limited to all applicable personnel policies and procedures and/or collective bargaining agreements, and conflict of interest policies. Santa Cruz shall not be required to establish any policies, procedures, and rules and guidelines for lifeguard services that are in conflict with or which are otherwise inappropriate under Santa Cruz's applicable policies and procedures.

9. INSURANCE.

- A. Each of the Parties, at its sole cost and expense, shall insure its activities in connection with this Agreement and obtain, keep in force and maintain, or be permissibly and legally self-insured, as follows:
 - i. Commercial General Liability Insurance (contractual liability included) with minimum limits as follows:
 - a. Each occurrence \$1,000,000

- ii. Business Automobile Liability Insurance for owned, scheduled, non-owned, or hired automobiles with a combined single liability limit of not less than \$1,000,000 per occurrence.
- iii. Worker's Compensation as required by California State law.
- iv. Such other insurance in such amounts which from time to time may be reasonably required by the mutual consent of the Parties against other insurable risks relating to performance.

The coverages required under Section A shall not limit the liability of the Parties.

The coverages for each party referred to under subsections i and ii of Section A shall include the other party as an additional insured. Such a provision, however, shall apply only in proportion to and to the extent of the negligent acts or omissions of the other Party, its officers, employees, and agents. Each party upon the execution of this Agreement shall furnish the other Party with certificates of insurance evidencing compliance with all requirements. Certificates shall further provide for thirty (30) days (10 days for non-payment of premium) advance written notice to the other Party of any material modification, change, or cancellation of any of the above insurance coverages.

10. INDEMNIFICATION. Each Party agrees to defend, indemnify, and save the other Party harmless from any and all claims, liability, losses, expenses, attorneys, fees or costs arising out of said Party's employees', officers' or agents' negligent acts, errors, omissions or willful misconduct while performing their obligations pursuant to this Agreement, but only in proportion to and to the extent such liability, losses, expenses, attorneys' fees, costs or claims for injury or damages are caused by the negligent or intentional acts or omissions of said Party, its officers, employees, or agents. For purposes of this provision none of the Santa Cruz personnel who provide services pursuant to this Agreement shall be construed to be, or considered, Capitola officers, employees or agents.

11. TERMINATION WITHOUT CAUSE. Each Party may terminate this Agreement, without cause, by giving written notice to the other Party. Such termination shall be effective thirty (30) days following receipt of written notice.

12. TERMINATION FOR CAUSE. Should any Party be in default of any covenant or condition hereof, the other Party may immediately terminate this Agreement for cause if the defaulting Party fails to cure the default within ten (10) calendar days of receiving a written notice of the default.

13. NON-ASSIGNABILITY. This Agreement shall not be assigned by either Party without first obtaining the express written consent of the other Party.

14. NOTICES. Any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to the Parties shall be in writing and shall be

deemed duly served and given when personally or electronically delivered to the Party to whom directed or in lieu of such personal or electronic service when deposited in the United States mail, postage paid to:

City of Capitola
420 Capitola Ave
Capitola CA 95010
Attn: City Manager
Telephone: (831) 475-7300

City of Santa Cruz
809 Center Street, Room 10
Santa Cruz CA 95060
Attn: City Manager
Telephone: (831) 420-5010

15. LEGAL REPRESENTATION AND ADVICE. Each party shall rely upon and consult with its respective jurisdiction's legal counsel regarding legal matters or issues related to its employees' performance pursuant to this Agreement. In the event that a legal matter or issue relates to two or more employees of differing jurisdictions, said jurisdictions shall meet and confer on appropriate legal representation and apportionment of costs, if applicable, consistent with the Parties' obligation under Section 10 above, Indemnification. Notwithstanding the foregoing, no employee, officer or agent of any Party to this Agreement shall be considered an employee of the other Party to this Agreement for purposes of legal representation and advice.

16. ENTIRE AGREEMENT. The Parties agree that this Agreement constitutes the sole and only Agreement between them representing lifeguard and lifeguard management services and correctly sets forth their obligations and duties with respect to each other.

17. AMENDMENT. This Agreement may be amended only by written consent of the Parties.

18. SUBJECT HEADINGS. The subject headings of the paragraphs in this Agreement are included solely for the purposes of convenience and reference, and shall not be deemed to explain, modify, limit, amplify or aid in the meaning, construction or interpretation of any provision of this Agreement.

19. NO INTERPRETATION AGAINST DRAFTING. This Agreement has been negotiated at arm's length between the Parties hereto. Accordingly, any rule or law (including California Civil Code §1635 et seq.) or legal decision that would require interpretation of any ambiguities in this Agreement against the Party that has drafted the applicable provision, is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purpose and intent of the Parties.

20. EXECUTE IN COUNTERPARTS. The Parties agree that there shall be two originals of this Agreement, which shall be identical in all respects, including form and substance. The

Item #: 8.C. Attach 1.pdf

Parties may execute this Agreement in two or more counterparts, which shall, in the aggregate, be deemed an original but all of which, together, shall constitute one and the same instrument.

21. GOVERNING LAW. This Agreement shall be construed in accordance with and governed by the laws of the State of California.

Executed at Santa Cruz, California as follows:

City of Capitola, a Municipal Corporation

By: _____

Name: Jamie Goldstein

Its: City Manager

Date: _____

City of Santa Cruz, a Municipal Corporation

By: _____

Name: Martin Bernal

Its: City Manager

Date: _____

Approved as to form:

By _____
John G. Barisone, City Attorney

Approved as to form:

By _____
Adair Paterno, Assistant City
Attorney



CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 11, 2013

FROM: CITY MANAGER'S DEPARTMENT

SUBJECT: SUPPORT OF SENATE BILL NO. 510 PERTAINING TO MOBILEHOME PARK CONVERSIONS

RECOMMENDED ACTION: Consider directing staff to send a letter in support of Senate Bill No. 510 pertaining to mobilehome park conversions to the Senate's Committee on Transportation and Housing with copies to Senator Monning and Assembly Member Stone.

BACKGROUND: In March of 2009 the City Council unanimously approved sending letters to the Assembly supporting Assembly Bill No. 566, and amendment to state law as it relates to the survey of the mobilehome park residents for a proposed conversion. Additionally in 2007 the City Council adopted Resolution No. 3628 in support of Senate Bill 900 and Assembly Bill 1542 also pertaining to mobilehome park conversions. Neither of these bills was successfully enacted.

DISCUSSION: Mr. Halterman, a local community member who is actively involved in mobilehome park issues has informed the city of impending legislation pertaining to mobilehome park conversions. Senate Bill No. 510 is very similar to the previous failed bills in that it proposes similar amendments to state law as proposed in Assembly Bill No. 566.

The Subdivision Map Act requires a subdivider, of a rental mobilehome park to obtain a survey of support of residents of the mobilehome park for the proposed conversion. This bill would provide that the local agency is required to consider the results of that survey in making its decision to approve, conditionally approve, or disapprove the map, and that the agency is authorized to disapprove the map if it finds that the results of the survey have not demonstrated the support of at least a majority of the park's homeowners. This bill would provide that local legislative bodies may enact local regulations to implement the survey requirements.

The courts have acknowledged that under current law, a subdivision can be accomplished absent popular support by effected park tenants. This statute, if adopted by the legislature and signed by the Governor, would address this deficiency thereby precluding the possibility of "sham conversions."

Given the city council's prior support and interest in this issue, staff is providing background information along with the proposed assembly bill for consideration.

FISCAL IMPACT: None

ATTACHMENTS:

1. Proposed Senate Bill 510
2. City Council Agenda Report March 26, 2009, including Resolution No. 3628.

Report Prepared By: Lisa G. Murphy
Administrative Services Director

Reviewed and Forwarded
by City Manager: 

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SENATE BILL

No. 510

Introduced by Senator JacksonFebruary 21, 2013

An act to amend Section 66427.5 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 510, as introduced, Jackson. Land use: subdivisions: rental mobilehome park conversion.

The Subdivision Map Act requires a subdivider, at the time of filing a tentative or parcel map for a subdivision to be created from the conversion of a rental mobilehome park to resident ownership, to avoid the economic displacement of all nonpurchasing residents by following specified requirements relating to the conversion, including the requirement that the subdivider obtain a survey of support of residents of the mobilehome park for the proposed conversion, the requirement that the results of the survey be submitted to the local agency for consideration, as specified, and the requirement that the subdivider be subject to a hearing by the legislative body or advisory agency that is authorized to approve, conditionally approve, or disapprove the map.

This bill would provide that the local agency is required to consider the results of the survey in making its decision to approve, conditionally approve, or disapprove the map, and that the agency is authorized to disapprove the map if it finds that the results of the survey have not demonstrated the support of at least a majority of the park's homeowners. This bill would provide that local legislative bodies may enact local regulations to implement the survey requirements.

This bill would set forth the findings and declarations of the Legislature that the changes made by this act do not constitute a change

in, and are declaratory of, existing law, and would state the intent of the Legislature to clarify the intent of certain provisions of the act.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 66427.5 of the Government Code is
2 amended to read:

3 66427.5. At the time of filing a tentative or parcel map for a
4 subdivision to be created from the conversion of a rental
5 mobilehome park to resident ownership, the subdivider shall avoid
6 the economic displacement of all nonpurchasing residents in the
7 following manner:

8 (a) The subdivider shall offer each existing tenant an option to
9 either purchase his or her condominium or subdivided unit, which
10 is to be created by the conversion of the park to resident ownership,
11 or to continue residency as a tenant.

12 (b) The subdivider shall file a report on the impact of the
13 conversion upon residents of the mobilehome park to be converted
14 to resident owned subdivided interest.

15 (c) The subdivider shall make a copy of the report available to
16 each resident of the mobilehome park at least 15 days prior to the
17 hearing on the map by the advisory agency or, if there is no
18 advisory agency, by the legislative body.

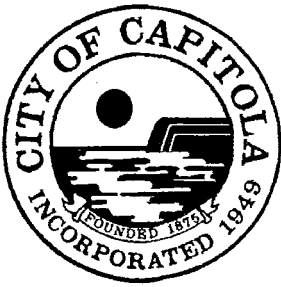
19 (d) (1) The subdivider shall obtain a survey of support of
20 residents of the mobilehome park for the proposed conversion.

21 (2) The survey of support shall be conducted in accordance with
22 an agreement between the subdivider and a resident homeowners'
23 association, if any, that is independent of the subdivider or
24 mobilehome park owner.

25 (3) The survey shall be obtained pursuant to a written ballot.

26 (4) The survey shall be conducted so that each occupied
27 mobilehome space has one vote.

28 (5) The results of the survey shall be submitted to the local
29 agency upon the filing of the tentative or parcel map, to be
30 considered *in the agency's decision as part to whether to approve,*
31 *conditionally approve, or disapprove the map, and the agency may*
32 *disapprove the map if it finds that the results of the subdivision*
33 ~~map hearing prescribed by subdivision (c). survey have not~~



CITY COUNCIL AGENDA REPORT

MEETING OF MARCH 26, 2009

FROM: Office of the City Clerk
 DATE: March 19, 2009
 SUBJECT: **Support of Assembly Bill No. 566 Pertaining to Mobilehome Parks: Conversion**

Recommended Action: That the City Council consider sending a letter in support of Assembly Bill No. 566 pertaining mobilehome park conversions. If approved, a motion directing staff to send a support letter to the Assembly's Committee on Housing & Community Development, with copies to Assembly Members Bill Monning and Anna Caballero, would be in order.

BACKGROUND

In April of 2007, the City Council unanimously adopted Resolution No. 3628, a Resolution in Support of Senate Bill 900 and Assembly Bill 1542 Pertaining to Mobilehome Park Conversions. This matter had been brought to the council's attention by Capitola mobilehome park resident Rick Halterman. Also in 2007, the City Council adopted Urgency Ordinance No. 923 which Established Information, Disclosure and Submission Requirements for Conversion of Mobilehome Parks to Resident Ownership and Requirement for Bona Fide Conversions (August 9, 2007).

DISCUSSION

Mr. Halterman has once again informed the city of impending legislation pertaining to mobilehome park conversions. Mayor Begun suggested this matter be placed on the agenda for consideration.

Assembly Bill No. 566 proposes two amendments to the current state law. One change relates to the survey of the mobilehome park residents for proposed conversion to require that, "The subdivider obtain a survey demonstrating support of a majority of the residents of the mobilehome park for the proposed conversion." The other change is an additional provision that, "Nothing in this section shall be construed as prohibiting a local agency from enacting reasonable measures by ordinance to prevent sham conversions or to preserve affordable housing."

Under California law mobilehome parks which are subdivided in accordance with procedures set forth in the Subdivision Map Act are exempt from local mobilehome rent stabilization ordinances. The courts have acknowledged that under current law, a subdivision can be accomplished absent popular support by effected park tenants. This statute, if adopted by the legislature and signed by the Governor, would address this deficiency thereby precluding the possibility of "sham conversions."

Given the city council's prior support and interest in this issue, staff is providing background information along with the proposed assembly bill for consideration.

ATTACHMENTS

1. Assembly Bill No. 566
2. Resolution No. 3628

Report Prepared By: Pamela Greeninger, City Clerk
 John G. Barisone, City Attorney

**Reviewed and Forwarded
 By City Manager:** 

Introduced by Assembly Member Nava

February 25, 2009

An act to amend Section 66427.5 of the Government Code, relating to mobilehome parks.

LEGISLATIVE COUNSEL'S DIGEST

AB 566, as introduced, Nava. Mobilehome parks: conversion.

(1) The Subdivision Map Act requires a subdivider, at the time of filing a tentative or parcel map for a subdivision to be created from the conversion of a mobilehome park to resident ownership, to avoid the economic displacement of nonpurchasing residents by obtaining a survey of support of residents of the mobilehome park for the proposed conversion, among other things. A violation of the act is a crime punishable as a felony or a misdemeanor.

This bill would require that survey of residents of the mobilehome park for proposed conversion to demonstrate support of a majority of the residents of the mobilehome park. The bill also would state that a local agency is not prohibited from enacting reasonable measures by ordinance to prevent sham conversions or to preserve affordable housing. Because the bill would expand the scope of an existing crime, it would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

AB 566

— 2 —

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 66427.5 of the Government Code is
 2 amended to read:

3 66427.5. At the time of filing a tentative or parcel map for a
 4 subdivision to be created from the conversion of a rental
 5 mobilehome park to resident ownership, the subdivider shall avoid
 6 the economic displacement of all nonpurchasing residents in the
 7 following manner:

8 (a) The subdivider shall offer each existing tenant an option to
 9 either purchase his or her condominium or subdivided unit, which
 10 is to be created by the conversion of the park to resident ownership,
 11 or to continue residency as a tenant.

12 (b) The subdivider shall file a report on the impact of the
 13 conversion upon residents of the mobilehome park to be converted
 14 to resident owned subdivided interest.

15 (c) The subdivider shall make a copy of the report available to
 16 each resident of the mobilehome park at least 15 days prior to the
 17 hearing on the map by the advisory agency or, if there is no
 18 advisory agency, by the legislative body.

19 (d) (1) The subdivider shall obtain a survey ~~of~~ *demonstrating*
 20 support of *a majority of the* residents of the mobilehome park for
 21 the proposed conversion.]

22 (2) The survey of support shall be conducted in accordance with
 23 an agreement between the subdivider and a resident homeowners'
 24 association, if any, that is independent of the subdivider or
 25 mobilehome park owner.

26 (3) The survey shall be obtained pursuant to a written ballot.

27 (4) The survey shall be conducted so that each occupied
 28 mobilehome space has one vote.

29 (5) The results of the survey shall be submitted to the local
 30 agency upon the filing of the tentative or parcel map, to be
 31 considered as part of the subdivision map hearing prescribed by
 32 subdivision (e).

33 (e) The subdivider shall be subject to a hearing by a legislative
 34 body or advisory agency, which is authorized by local ordinance
 35 to approve, conditionally approve, or disapprove the map. The

1 scope of the hearing shall be limited to the issue of compliance
2 with this section.

3 (f) The subdivider shall be required to avoid the economic
4 displacement of all nonpurchasing residents in accordance with
5 the following:

6 (1) As to nonpurchasing residents who are not lower income
7 households, as defined in Section 50079.5 of the Health and Safety
8 Code, the monthly rent, including any applicable fees or charges
9 for use of any preconversion amenities, may increase from the
10 preconversion rent to market levels, as defined in an appraisal
11 conducted in accordance with nationally recognized professional
12 appraisal standards, in equal annual increases over a four-year
13 period.

14 (2) As to nonpurchasing residents who are lower income
15 households, as defined in Section 50079.5 of the Health and Safety
16 Code, the monthly rent, including any applicable fees or charges
17 for use of any preconversion amenities, may increase from the
18 preconversion rent by an amount equal to the average monthly
19 increase in rent in the four years immediately preceding the
20 conversion, except that in no event shall the monthly rent be
21 increased by an amount greater than the average monthly
22 percentage increase in the Consumer Price Index for the most
23 recently reported period.

24 (3) *Nothing in this section shall be construed as prohibiting a*
25 *local agency from enacting reasonable measures by ordinance to*
26 *prevent sham conversions or to preserve affordable housing.*

27 SEC. 2. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.

0

COPY

RESOLUTION NO. 3628

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
IN SUPPORT OF SENATE BILL 900 AND ASSEMBLY BILL 1542
PERTAINING TO MOBILEHOME PARK CONVERSIONS**

WHEREAS, in 2002 the California legislature, at the behest of Assemblymember Fred Keeley who authored the Bill, adopted Assembly Bill 930 adding provisions to California Government Code Section 66427.5 which were intended to assure that mobilehome park conversions from landlord-owned parks to subdivided resident-owned parks were undertaken in good faith to assure the likelihood that all or the majority of park residents, after conversion, actually owned the subdivided parcels that were created pursuant to the subdivision/conversion process thereby resulting in the residents' traditional home ownership where, as is the case for other types of homes, the resident of the mobilehome owned both the mobilehome and the land upon which the mobilehome was situated; and

WHEREAS, it was imperative to assure that mobilehome park conversions/subdivisions were indeed bonafide undertakings to assure mobilehome resident ownership of the subdivided parcels because, under state law, a mobilehome park conversion/subdivision serves to prospectively exempt the converted/subdivided mobilehome park from the application of an otherwise applicable local mobilehome rent control ordinance; and

WHEREAS, a "sham conversion" could therefore serve to provide a basis upon which a local jurisdiction's mobilehome rent control ordinance would be rendered ineffective while simultaneously defeating the legislative objective of assuring that conversions/subdivisions were undertaken and accomplished so as to assure mobilehome park ownership by park residents; and

WHEREAS, subsequent to the adoption of AB 930, the California Court of Appeal in a published decision entitled *El Dorado Palm Springs, Ltd. v. City of Palm Springs* (96-Cal.App.4th 1153) interpreted the provisions of AB 930 to actually facilitate, rather than assure against, a mobilehome park owner's ability to achieve a "sham conversion" and, in the process, strip park residents who would subsequently not be offered, or be able to afford, the purchase of their newly-created mobilehome parcels, of all rent control protections that were previously afforded by their local jurisdiction's mobilehome rent control ordinance; and

WHEREAS, in light of the foregoing *City of Palm Springs* decision, a number of mobilehome park owners throughout the State of California, including Santa Cruz County, have begun the subdivision process pursuant to which their parks will ultimately be subdivided and converted with no intention of ultimately assuring that the park is resident-owned; and

WHEREAS, in light of foregoing developments, State Senator Corbett and Assemblymember Evans have co-authored Senate Bill 900 and Assembly Bill 1542 respectively with the intent of, among other details, repealing Government Code Section 66427.5 in order that the provisions of that Government Code section can no longer be used by mobilehome park owners to undertake "sham conversions" of mobilehome parks; and

WHEREAS, the City of Capitola has consistently advocated for the rights and protections of the City's mobilehome park residents through the adoption, implementation and strenuous legal defense of the City of Capitola Mobilehome Rent Stabilization Ordinance as well as through the devotion of City resources and assistance to mobilehome park home owner associations which undertake purchase negotiations for their mobilehome parks in order to accomplish resident ownership of those parks.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Capitola that the City of Capitola strongly supports the adoption of Senate Bill 900 and Assembly Bill 1542.

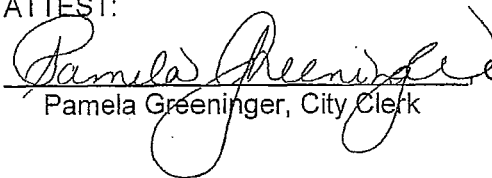
BE IT FURTHER RESOLVED that the City Council of the City of Capitola hereby directs the Mayor to write a letter to the City's representatives in the State Senate and State Assembly as well as to the Governor advising those parties of the adoption of this Resolution and the City's support of these two bills and all other legislative initiatives intended to protect the rights of mobilehome park residents, especially moderate, low and very low income residents, throughout the State of California.

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 26th day of April, 2007, by the following vote:

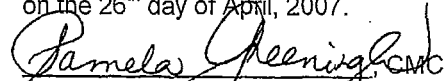
AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini
NOES: None
ABSENT: None
ABSTAIN: None
DISQUALIFIED: None


Michael Termini, Mayor

ATTEST:

 CMC
Pamela Greeninger, City Clerk

This is to certify that the above and foregoing is a true and correct copy of Resolution No. 3628 passed and adopted by the Capitola City Council on the 26th day of April, 2007.

 CMC
Pamela Greeninger, City Clerk



ACTION MINUTES

CAPITOLA PLANNING COMMISSION

Thursday, April 4, 2013 – 7:00 PM

Chairperson Mick Routh
Commissioners Ron Graves
 Gayle Ortiz
 Linda Smith
 TJ Welch

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

2. ORAL COMMUNICATIONS

- A. Additions and Deletions to Agenda**
- B. Public Comments**
- C. Commission Comments**
- D. Staff Comments**

3. APPROVAL OF MINUTES

- A. March 7, 2013, Regular Planning Commission Meeting**

Approved 5-0.

4. CONSENT CALENDAR

- A. 105 STOCKTON AVENUE #13-034 APN: 035-171-21**

Conditional Use Permit and Sign Permit to allow a deli/sandwich shop in an existing building in the CV (Central Village) Zoning District.

Environmental Determination: Categorical Exemption

Owner: Ashley Hubback

Applicant: Bill Bennett, filed: 3/14/13

Item approved 5-0.

5. PUBLIC HEARINGS

- A. 116 GRAND AVENUE #13-015 APN: 036-112-11**

Coastal Permit, Design Permit and Revocable Encroachment Permit to remodel an existing single-story single-family house and construct a new detached garage with a setback variance, and Tree Removal Permit in the R-1 (Single-Family Residence) Zoning District.

Environmental Determination: Categorical Exemption

This project requires a Coastal Permit which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.

Owner: John & Berna Bruzzone, filed: 1/28/13

Representative: Dennis Norton

Item approved 5-0.

B. 305 FANMAR WAY #13-026 APN: 035-161-14

Coastal Permit and Design Permit to remodel an existing multi-story single-family house, including a first and second story addition in the RM-LM (Multi-Family Residence - Low Medium) Zoning District.

Environmental Determination: Categorical Exemption

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

Owner: Peter Wilk, filed: 2/19/13

Representative: Derek Van Alstine

Item continued 4-1.

6. DIRECTOR'S REPORT

7. COMMISSION COMMUNICATIONS

8. ADJOURNMENT

Adjourn to the next Planning Commission on Thursday, May 2, 2013 at 7 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 11, 2013

FROM: CITY MANAGER'S OFFICE

SUBJECT: CONSIDER SUPPORT FOR THE SOQUEL UNION ELEMENTARY SCHOOL DISTRICT MEASURE S

RECOMMENDED ACTION: Council discretion to consider supporting the Soquel Union Elementary School District's (SUESD) Measure S.

BACKGROUND: The SUESD Board has placed on item on the May 7, 2013 all-mail ballot for voters to consider a local education funding measure, Measure S. The Measure, if approved, is intended to provide stable funding for core academic programs like reading, writing, math and science, as well as retain highly qualified teachers in Soquel and Capitola neighborhood elementary and middle schools.

DISCUSSION: According to the School District, since 2008, Soquel and Capitola schools have experienced \$1.3 million in cuts due to state reductions in education funding, which has resulted in increased class sizes, reductions to art and music programs, and cuts to school library services.

From information on the voter's pamphlet, the Measure "proposes to establish a core academic programs parcel tax for a period of eight years, beginning July 1, 2013, at the rate of \$90 per year, on each assessor's parcel located within the Soquel Union Elementary School District, with an exemption available for senior citizens and recipients of SSI for a disability, and to implement strict accountability measures, including independent citizen oversight, to ensure the funds are used to:

- Protect core academic programs in reading, writing, math and science;
- Maintain advanced math, science and other courses for high-performing students;
- Attract and retain highly qualified teachers;
- Support smaller class sizes;
- Retain school libraries and librarians;
- Maintain art and music programs; and
- Keep schools safe and clean.

The Measure requires 66.6% voter approval to pass.

FISCAL IMPACT: None

ATTACHMENT:

1. Voter's Pamphlet

Report Prepared By: Jamie Goldstein
City Manager

**Reviewed and Forwarded
By City Manager:** 

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VOTER'S PAMPHLET**MEASURES, ANALYSES AND ARGUMENTS**

(whichever is applicable to your ballot)

Arguments in support of, or in opposition to, the proposed laws are the opinions of the authors.

SOQUEL UNION ELEMENTARY SCHOOL DISTRICT

S EDUCATION IMPROVEMENT MEASURE. To provide stable funding for New Brighton Middle, Main Street, Opal Cliffs, Santa Cruz Gardens and Soquel Elementary for academic programs in reading, writing, math and science, attracting and retaining quality teachers, smaller class sizes, school libraries/librarians, maintaining art and music programs, shall Soquel Union Elementary School District levy an education tax of \$90 per parcel for eight years with citizen oversight, exempting senior citizens, no funds for administrators' salaries, and all funds staying local?

FULL TEXT OF BALLOT MEASURE S

SOQUEL UNION ELEMENTARY SCHOOL DISTRICT
Core Academic Programs Parcel Tax Measure S

INTRODUCTION AND PURPOSE

To ensure reliable funding for Soquel schools that cannot be taken by the State, **protect academic programs in reading, writing, math and science and attract and retain highly qualified teachers, provide advanced math, science and other courses for high-performing students, protect school libraries and librarians and maintain smaller class size, with no proceeds used for administrative salaries and benefits, the Soquel Union Elementary School District ("District") proposes to establish a core academic programs parcel tax for a period of eight years, beginning July 1, 2013, at the rate of \$90 per year, on each assessor's parcel located within the Soquel Union Elementary School District, with an exemption available for senior citizens and recipients of SSI for a disability, and to implement strict accountability measures, including independent citizen oversight, to ensure the funds are used to:**

- Protect core academic programs in reading, writing, math and science;
- Maintain advanced math, science and other courses for high-performing students;
- Attract and retain highly qualified teachers;
- Support smaller class sizes;
- Retain school libraries and librarians;
- Maintain art and music programs; and
- Keep schools safe and clean

AMOUNT OF CORE ACADEMIC PROGRAMS PARCEL TAX; PERIOD OF ASSESSMENT

The core academic programs parcel tax shall be \$90 (or less as provided below) per year for eight (8) full years assessed against each Parcel.

The proceeds of the core academic programs parcel tax shall be deposited into a separate account created by the District.

DEFINITION OF "PARCEL"

For purposes of the core academic programs parcel tax, the term "Parcel" means any parcel of land which lies wholly or partially within the boundaries of the Soquel Union Elementary School District, that receives a separate tax bill for *ad valorem* property taxes from the Santa Cruz County Assessor/Tax Collector. All property that is otherwise exempt from or upon which are levied no *ad valorem* property taxes in any year shall also be exempt from the core academic programs parcel tax in such year.

For purposes of this core academic programs parcel tax, any such "Parcels" which are (i) contiguous, and (ii) used solely for owner-occupied, single-family residential purposes, and (iii) held under identical ownership may, by submitting an application of the owners thereof by June 15 of each year to the District, be treated as a single "parcel" for purposes of the levy of the core academic programs parcel tax.

EXEMPTION FOR SENIORS AND SSI RECIPIENTS

Pursuant to California Government Code Section 50079 (b), any owners of a Parcel used solely for owner-occupied, single-family residential purposes and who are either (a) 65 years of age or older or (b) persons receiving Supplemental Security Income for a disability, regardless of age, **may obtain an exemption** from the core academic programs parcel tax by annually submitting an application therefore, by June 15 of each year, to the District.

With respect to all general property tax matters within its jurisdiction, the Santa Cruz County Assessor/Tax Collector, or other appropriate county tax officials shall make all final determinations of tax exemption or relief for any reason, and that decision shall be final and binding. With respect to matters specific to the levy of the core academic programs parcel tax, including the Senior Citizen Exemption and the SSI Exemption and the classification of property for purposes of calculating the tax, the decisions of the District shall be final and binding.

REDUCTION IN TAX IF RESULT IS LESS OTHER GOVERNMENT SUPPORT

The collection of the core academic programs parcel tax is not intended to decrease or offset any increase in local, state or federal government revenue sources that would otherwise be available to the District during the period of the core academic programs parcel tax. In the event that the levy and collection does have such an effect, the District shall cease the levy or shall reduce the core academic programs parcel tax to the extent that such action would restore the amount of the decrease or offset in other revenues.

ACCOUNTABILITY MEASURES

In accordance with the requirements of California Government Code Sections 50075.1 and 50075.3, the following accountability measures, among others, shall apply to the core academic programs parcel tax levied in accordance with this Measure: (a) the specific purposes of the core academic programs parcel tax shall be those purposes identified above; (b) the proceeds of the core academic programs parcel tax shall be applied only to those specific purposes identified above; (c) a separate, special account shall be created into which the proceeds of the core academic programs parcel tax must be deposited; and (d) an annual written report shall be made to the Board of Trustees of the District showing (i) the amount of funds collected and expended from the proceeds of the core academic programs parcel tax and (ii) the status of any projects or programs required or authorized to be funded from the proceeds of the core academic instruction parcel tax, as identified above. **Further, the Board of Trustees will establish a process for independent citizen oversight.**

VOTER'S PAMPHLET

MEASURES, ANALYSES AND ARGUMENTS

(whichever is applicable to your ballot)

Arguments in support of, or in opposition to, the proposed laws are the opinions of the authors.

**IMPARTIAL ANALYSIS BY COUNTY COUNSEL
MEASURE S**

If this measure is approved by at least two-thirds of those voting on it, the Soquel Union Elementary School District ("the School District") will be authorized to levy a special tax on real property. The tax would be imposed for eight years beginning July 1, 2013, at the rate of \$90 per year on each parcel within the School District.

The proceeds of the special tax, if approved, may be applied only to the purposes set out in the full text of Measure S which is printed in this pamphlet. It may not be used for administrators' salaries or benefits.

In accordance with State law, the School District Board would implement accountability measures. It would create a separate account into which the proceeds of the special tax shall be deposited. An annual written report would show the amount of the special taxes which have been collected and expended, and the status of projects to be funded from those proceeds.

The special parcel tax is to be collected in the same manner as those property taxes which are based upon property value.

Property owners who are 65 years of age or older or who are receiving Supplemental Security Income for a disability regardless of age, whose property is used solely for owner-occupied, single family residential purposes, may obtain an exemption from the parcel tax by applying annually to the School District. An owner of contiguous parcels meeting specified criteria may also apply annually to have the parcels treated as a single parcel for purposes of the tax.

The School District Board of Trustees proposes to reduce this parcel tax if it should develop that it has an unintended effect of decreasing or offsetting local, state or federal government funding sources that would otherwise be available to the School District.

Any necessary increases in the School District's appropriations limit will be accomplished pursuant to State law, in order to permit proceeds of the special tax to be spent for the authorized purposes.

A "yes" vote is to approve imposition of the special parcel tax.

A "no" vote is against imposition of the special parcel tax.

DANA McRAE, COUNTY COUNSEL

By Jane M. Scott, Assistant County Counsel

VOTER'S PAMPHLET
MEASURES, ANALYSES AND ARGUMENTS

(whichever is applicable to your ballot)

Arguments in support of, or in opposition to, the proposed laws are the opinions of the authors.

ARGUMENT IN FAVOR OF MEASURE S

Vote YES on S to protect strong educational programs and retain qualified teachers in our Soquel and Capitola neighborhood elementary and middle schools.

Whether they attend New Brighton Middle, Main Street, Opal Cliffs, Santa Cruz Gardens or Soquel Elementary, local children receive a strong foundation in math, science, reading and writing. In fact, student achievement is on the rise, with statewide test scores increasing each year.

To protect education in our community and continue preparing students for success in high school, college and careers, Measure S is essential.

Since 2008, our schools have experienced \$1.3 million in cuts due to state reductions in education funding, causing increased class sizes, reductions to art and music programs and cuts to school library services. We cannot rely on the State to provide a strong education for the students in our community.

Measure S provides stable education funding for our schools—the State cannot take a single penny.

Measure S continues student success in Soquel and Capitola

- Protects academic programs in reading, writing, math, science and technology
- Maintains advanced math and science programs for high-performing students
- Attracts and retains qualified teachers
- Supports smaller class sizes
- Maintains school libraries
- Maintains art and music programs
- Keeps schools safe and clean

Financial accountability and local oversight are required:

- All funds go directly to our local schools and cannot be taken by the State
- A Citizen Oversight Committee and annual reports ensure fiscal accountability
- No funds may be spent on administrators' salaries
- Expires in 8 years and cannot be extended without voter approval
- A senior citizen homeowners' exemption is available

Even if we don't have children in school, we know strong schools support our local youth and keep our neighborhoods safe and our property values strong. Please join us and vote YES on S.

s/ John Leopold
Santa Cruz County Supervisor, 1st District

s/ Mimi Edgar
Retired Teacher and Soquel Resident

s/ Laurie Negro
Local Business Owner, Betty Burgers

s/ Molly Graessle
Soquel Union Elementary School Parent and Capitola Resident

s/ Joe Clarke
26 Years Local Law Enforcement

REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE S

Measure S needs a 2/3rds "yes" vote to raise your property taxes but only a simple majority to extend it in a future election. Special off-cycle elections seem to draw more educated, involved voters who understand the value of education. Please don't be rooked by the slick verbiage of this Measure. If this were really about children and quality education, the board members would already be working across districts to consolidate schools and services, decrease administrators and negotiate teacher contracts that reward quality teachers not tenure.

This measure is about new funding for basic education so current money can be saved or diverted to build a new elementary school and increase pay for unions and administrators. This District cannot be trusted. The people voted NO on preschools but Soquel Union built Opal Cliff preschool anyway. Why should we trust them now?

Soquel Union is not a growing district. Parents volunteering in the library and any other place needed is a real plus. It promotes cooperation, provides oversight and saves needed financial resources. Grow the volunteers! Don't replace them with paid, benefited staff.

Eighty-three percent of us don't have children in the District schools. We have a right to expect our homes and limited resources will be respected. The District Board and Superintendent cannot claim the moral high ground simply by invoking children and education in a ballot measure. Protect your home and your neighbors'. Vote **NO** on Measure S.

s/ Sandra L. Erickson
Home Owner

s/ Mary Sue Leffel
Homeowner

s/ John Conrado
Home Owner

VOTER'S PAMPHLET
MEASURES, ANALYSES AND ARGUMENTS

(whichever is applicable to your ballot)

Arguments in support of, or in opposition to, the proposed laws are the opinions of the authors.

ARGUMENT AGAINST MEASURE S

Your home is in the crosshairs of the Soquel Union Elementary School District. The election that passed Proposition 30 to raise sales tax for schools wasn't even certified when Soquel School District started spending limited school funds to poll voters, to prepare a four page color brochure for mailing to ask you to raise your taxes again, and better yet (if you are a senior), to **ask you to raise your neighbor's taxes**. Your home is not a piggy bank and in Santa Cruz County property values are **not** driven by the perceived quality of education.

The citizens of California have taken a real financial hit over the past five years. They are unemployed or underemployed and their home values have dropped or gone into foreclosure. The district expects to maintain business as usual and bemoans having to make difficult choices. Trimming \$300,000 a year from a \$14,000,000 budget is not draconian. When citizens are financially healthy again the schools will be also.

This District cannot be trusted. California residents voted NO on public preschools but Soquel Union built one in Jade Street Park for the express purpose of trying to grow the shrinking student population. There are about 1900 students in the four real schools. The district spends close to \$8000 per child. Teacher student ratios have increased but even 30 students in a class is a very small number compared to the not so distant past. Soquel Union will never think they have enough of our money!

What is the rush to have a special election? In May no less, by mail! They are trying to catch you off guard. Guard your property. VOTE NO ON MEASURE S

s/ Mary Sue Leffel
Home Owner

s/ Lawrence J. Borger
Home Owner

s/ Ellen A. Borger
Home Owner

s/ John D. Conrado
Home Owner

s/ Sandra L. Erickson
Home Owner

REBUTTAL TO ARGUMENT AGAINST MEASURE S

The few Measure S opponents simply don't know the facts.

Those who are voting YES on S—including local elected officials, business leaders, retirees and realtors—believe that quality education is a priority and understand that our excellent local schools benefit us all.

Here are the facts:

The State is an unreliable partner when it comes to education funding. Our local schools have experienced \$1.3 million in cuts since 2008, causing class size increases and academic program reductions. Proposition 30 does not provide a single dollar of additional funding or restore any of the cuts our schools have already endured.

Measure S provides our community with a vital solution, giving our schools the local control necessary to continue student achievement.

Every penny stays in our neighborhood schools—Sacramento can't take away one penny.

Soquel Union Elementary School District has a history of sound fiscal management. In this tradition, fiscal accountability is a key component of Measure S.

Measure S can only be used for specific educational priorities:

- Protecting academic programs
- Attracting and retaining qualified teachers
- Supporting smaller class sizes
- Maintaining school libraries
- Maintaining art and music programs
- Keeping schools safe and clean

Measure S cannot pay for administrators' salaries. A citizens' oversight committee will provide annual public reports, ensuring funds are spent as promised.

Seniors, who are on fixed incomes and have been contributing to our community for decades, are eligible for an exemption.

We know that Measure S is what our community and local students need.

Join us and vote YES on S.

s/ Ted Donnelly
Community Member

s/ Lou Tuosto
former SUESD Citizen Oversight Committee member and owner, Tuosto Insurance & Financial

s/ Jill Gallo
Program Coordinator Cabrillo College

s/ Jacob Young
Certified Financial Planner

s/ Ruth G. Fisher
local business owner/Dancercenter



CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 11, 2013

FROM: DEPARTMENT OF PUBLIC WORKS

SUBJECT: LOWER PACIFIC COVE FINANCING AND VILLAGE PAY STATION
DEPLOYMENT

RECOMMENDED ACTION: take the following actions:

1. Adopt a Resolution authorizing the City Manager to submit a final application to the State IBank program \$1.37 million for the Lower Pacific Cove Parking Lot Project; and
2. Approve the purchase of five additional pay stations to replace single space parking meters along Cliff Drive and Monterey Avenue; and
3. Approve a trial of single space meters that accept both coins and credit cards at six parking spaces along Capitola Avenue across from City Hall; and
4. Approve a budget amendment transferring \$78,000 from the General Fund's Unassigned Fund Balance to the Parking Reserve Fund to purchase five pay stations and six single space credit card-enabled meters.

BACKGROUND: On March 28, 2013 the City Council considered the project plans and financing options for the Lower Pacific Cove Parking Lot Project. At this meeting staff was directed to study increasing the IBank loan amount for the purchase additional parking pay stations to potentially eliminate all single space parking meters in the City.

DISCUSSION: Multi space pay stations are effective in serving parking areas where the parking density is high, such as in parking lots or in the Village where there is diagonal street parking and each pay station can effectively serve 10 spaces or more. Due to the high cost of each pay station (\$15,000 each), in areas of parallel street parking pay stations become less cost effective due to the reduced parking density. In these areas, most jurisdictions are using single space meters that accept coins, credit cards, and can utilize pay by cell phone features. These single space meters cost approximately \$500 each.

Staff has analyzed the City's parking meter zones to determine where pay stations may be most appropriate and where credit card-enabled single space meters may be more appropriate using the following criteria:

1. One pay station must serve 10 or more spaces;
2. Parking spaces should be within 75 feet of a pay station without requiring a mid block street crossing.

Item #: 9.B. Staff Report.pdf

AGENDA STAFF REPORT April 11, 2013
LOWER PACIFIC COVE FINANCING AND
VILLAGE PAY STATION DEPLOYMENT

The following table summarizes this analysis and recommendations.

Location	No. of Spaces	Minimum Pay station requirement	Space/meter Ratio	Recommended Meter Type	Proposed Recommended Action
Capitola Avenue above railroad trestle to City Hall	6	1	6	Single space	Test credit card single space
Capitola Avenue between Stockton Avenue and railroad trestle	21	3	7	Single space	TBD
North side of Capitola Avenue between Stockton Avenue and San Jose Avenue	6	1	6	Single space	TBD
South side of Capitola Avenue between San Jose Avenue and Monterey Avenue	7	0	N/A	Pay stations	Relocate existing pay stations
Monterey Avenue immediately north of Capitola Avenue	12	1	12	Pay station	Purchase pay station
Wharf Road at base of Wharf	8	2	4	Single space	TBD
Cliff Drive turnout (south side #1)	10	1	10	Pay station	Purchase pay station
Cliff Drive turnout (south side #2)	11	1	11	Pay station	Purchase pay station
Cliff Drive turnout (north side)	48	2	24	Pay Station	Purchase two pay stations

Staff's recommendation is to purchase and install five new pay stations, four in the turn outs along Cliff Drive and one at the intersection of Monterey Avenue and Capitola Avenue. In addition two existing pay stations will be relocated to serve the southern edge of Capitola Avenue. Staff's recommendation also includes a trial of the credit card single space meters on six spaces across the street from City Hall. If successful, additional credit card-enabled single space meters will be purchased to replace existing meters. Finally, staff is recommending that a final decision on how best to serve the parking spaces along Capitola Avenue between Stockton Avenue and the railroad trestle be deferred until a full discussion of the parking rates and meter zone areas is held later this summer. A map, Attachment 3, is included which details these recommendations.

FISCAL IMPACT: An additional \$78,000 will need to be appropriated to purchase the five pay stations and six single space credit card meters. The funding for this project could come from the unassigned General Fund Balance or it can be included in the IBank loan application. Due to the recent settlement agreement with Santa Cruz County regarding the property tax administration fee, staff is recommending transferring the \$78,000 from the General Fund Unassigned Fund Balance to the Parking Reserve Fund to purchase the additional pay stations and meters, and not increasing the size of the IBank loan.

AGENDA STAFF REPORT April 11, 2013
 LOWER PACIFIC COVE FINANCING AND
 VILLAGE PAY STATION DEPLOYMENT

Charts detailing the estimated impact to the General Fund and the IBank funding options are listed below:

General Fund:

Estimated General Fund Balance	
Original Mid-Year Fund Balance Projection - 06/30/2013	\$299,700
Less approved transfer to reserves	150,000
Adjusted Mid-Year General Fund Balance - 06/30/2013	\$149,700
Unanticipated Revenues – Property Tax Admin. Fee refund	108,800
Additional appropriation for parking meters	(78,000)
Estimated Revised General Fund Balance	\$180,500

Potential impacts that could adversely affect the fund balance projection include: the delay in the receipt of \$85,000 in revenues associated with a budgeted land sale and a \$48,000 Department of Finance "clawback" of City/RDA loan interest payments. If both of these negative transactions were to occur, this would result in an estimated General Fund balance of \$44,500.

IBank Funding Proposal:

Element	Original Amount	Revised
Estimated annual debt service - Pacific Cove Parking Lot loan @ 2.25%	\$88,032	\$93,030
Refinancing \$2.39 million debt with Santa Cruz County Bank	(28,250)	(28,250)
Projected parking space revenue (226 spaces @ \$161 space)	(36,400)	(36,400)
Terminate beach shuttle lot lease	(5,000)	(5,000)
Reduce storage costs	(4,000)	(4,000)
Estimated Annual General Fund Costs	\$14,382	\$19,380

ATTACHMENTS

1. IBank Draft Resolution
2. Budget Adjustment sheet
3. Map

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

Reviewed and Forwarded
 By City Manager: 

Acting

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RESOLUTION NO. ____

A RESOLUTION OF THE CITY OF CAPITOLA AUTHORIZING THE SUBMISSION OF THE APPLICATION TO THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK FOR FINANCING OF PACIFIC COVE PARKING LOT PROJECT, DECLARATION OF OFFICIAL INTENT TO REIMBURSE CERTAIN EXPENDITURES FROM PROCEEDS OF OBLIGATION, AND APPROVING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the California Infrastructure and Economic Development Bank ("I-Bank") administers a financing program to assist local governments with the financing of Public Development Facilities as described in Section 63000 *et seq.* of the California Government Code (the "Act"); and,

WHEREAS, the I-Bank has instituted an application process for financing under its Infrastructure State Revolving Fund Program ("ISRF Program"); and,

WHEREAS, the City of Capitola ("Applicant") desires to submit an application ("Financing Application") to the I-Bank from the ISRF Program for the financing of the Pacific Cove Parking Lot Project ("Project") in an amount not to exceed \$1,372,500; and,

WHEREAS, the Act requires the Applicant to certify by Resolution certain findings prior to a Project being selected for financing by the I-Bank; and,

WHEREAS, the Applicant expects to pay certain expenditures ("Reimbursement Expenditures") in connection with the Project prior to incurring indebtedness for the purpose of financing costs associated with the Project on a long-term basis; and

WHEREAS, the Applicant reasonably expects that a financing arrangement ("Obligation") in an amount not expected to exceed \$1,372,500 will be entered into and that certain of the proceeds of such Obligation will be used to reimburse the Reimbursement Expenditures; and

WHEREAS, the ISRF Program requires funding sources, other than the I-Bank financing, be identified and approved prior to Project financing approval by the I-Bank Board.

NOW, THEREFORE, the City of Capitola does resolve as follows:

Section 1. The City of Capitola hereby approves the filing of an ISRF Program Financing Application with the I-Bank for the Project; and in connection therewith certifies:

- a. The Project is consistent with the General Plan of both the City of Capitola and the County of Santa Cruz;
- b. The proposed financing is appropriate for the Project;
- c. The Project facilitates effective and efficient use of existing and future public resources so as to promote both economic development and conservation of natural resources;
- d. The Project develops and enhances public infrastructure in a manner that will attract, create, and sustain long-term employment opportunities; and

Item #: 9.B. Attach 1.pdf

RESOLUTION NO. ____

- e. The Project is consistent with the I-Bank's Criteria, Priorities and Guidelines for the ISRF Program.

Section 2. The Applicant hereby declares its official intent to use proceeds of the Obligation to reimburse itself for Reimbursement Expenditures. This declaration is made solely for purposes of establishing compliance with the requirements of Section 1.150-2 of the Treasury Regulations. This declaration does not bind the Applicant to make any expenditure, incur any indebtedness, or proceed with the Project.

Section 3. All of the Reimbursement Expenditures were made no earlier than 60 days prior to the date of this Declaration. The Applicant will allocate proceeds of the Obligation to pay Reimbursement Expenditures within eighteen (18) months of the later of the date the original expenditure is paid or the date the Project is placed in service or abandoned, but in no event more than three (3) years after the original expenditure is paid.

Section 4. That the Applicant has available and commits not to exceed \$2,390,000 to the Project from debt proceeds received for the Pacific Cover Mobile Home Relocation phase of this project.

Section 5. Jamie Goldstein, City Manager, is hereby authorized and directed to act on behalf of the City of Capitola in all matters pertaining to this application.

Section 6. If the application is approved, City Manager Goldstein is authorized to enter into and sign the financing documents and any amendments thereto with the I-Bank for the purposes of this financing.

Section 7. This Resolution shall become effective immediately upon adoption.

I HEREBY CERTIFY that the above and foregoing Resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 11th day of April, 2013, by the following vote:

PASSED, APPROVED and ADOPTED this 11 day of April, 2013 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Stephanie Harlan, Mayor

ATTEST:

_____, CMC
Susan Sneddon, City Clerk

City of Capitola Budget Adjustment Form



Date 4/11/2013

Requesting Department Public Works

Administrative Council

Item # _____
 Council Date 4/11/2013
 Council Approval _____

Revenues		
Account #	Account Description	Increase/Decrease
1316-30-30-000-3910.100	Interfund transfer-in General Fund	78,000
Total		78,000

Expenditures		
Account #	Account Description	Increase/Decrease
1316-30-30-000-4650.400	Capital Outlay-Machinery & Equip.	78,000
1000-99-99-000-4910.316	Interfund Transfer Out - Parking Res	78,000
Total		156,000

Net Impact (78,000)

Purpose: Purchase paystations and single source meters for the Village
Paystation Deployment Project

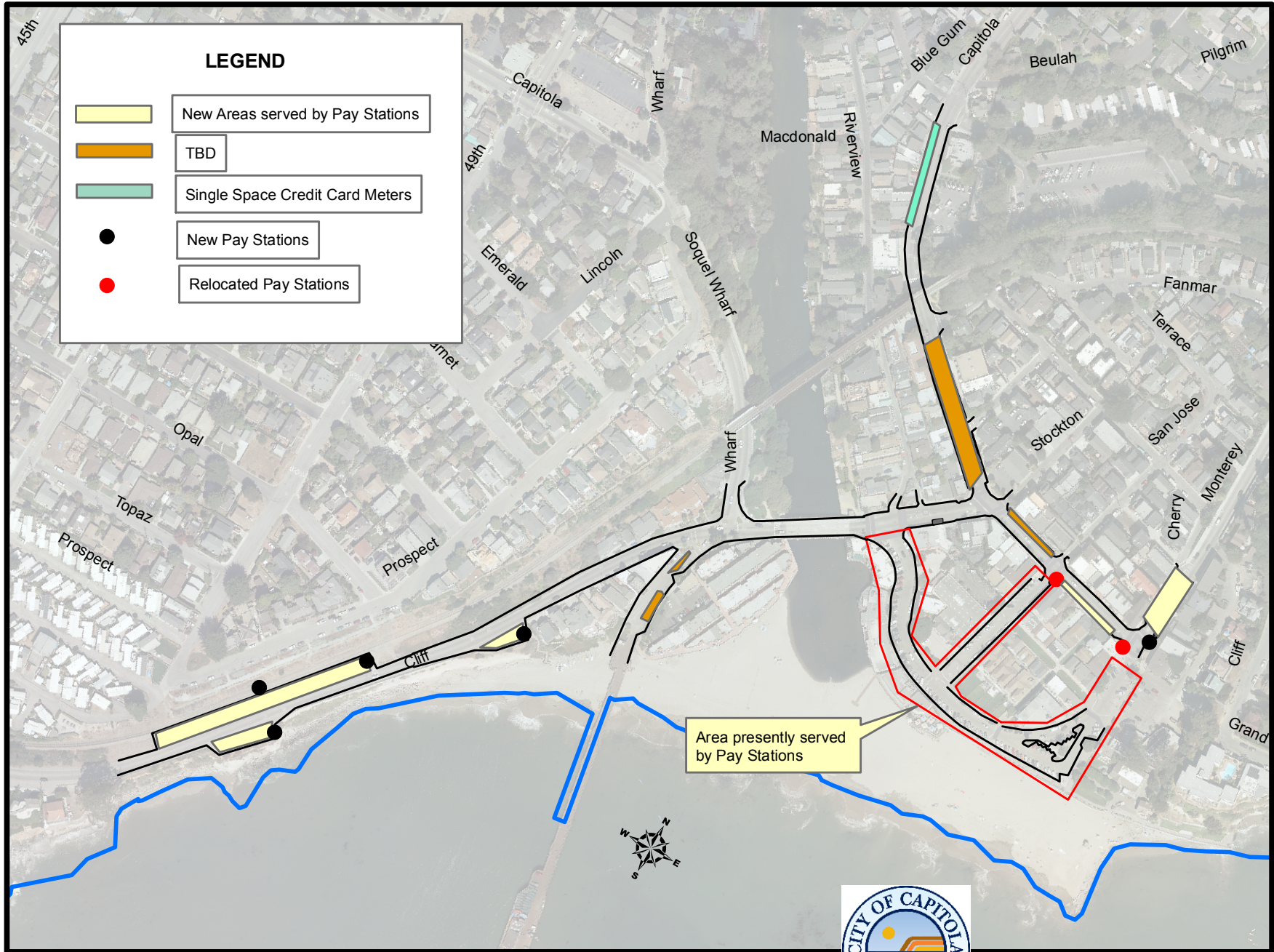
Department Head Approva _____

Finance Department Approval _____

City Manager Approval _____

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Pay Stations & Parking Meter Map



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CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 11, 2013

FROM: POLICE DEPARTMENT

SUBJECT: CONSIDER INFORMATIONAL UPDATE REPORT ON GUN REGULATIONS

RECOMMENDED ACTION: Accept informational report, direct staff to send a letter in support of Senate Bill No. 53 pertaining to ammunition purchase permits to the Senate Committee on Public Safety with copies to Senator Monning and Assembly Member Stone.

BACKGROUND: At its January 10th, 2013 meeting, City Council directed staff to evaluate and explore options for additional gun regulations within the City. At its February 28th, 2013 meeting, Council adopted an urgency ordinance revising current city firearm regulations under CMC 5.32.

DISCUSSION: Locally, staff has updated our website to encourage residents and gun owners to follow the safest and best practices in the safe storage of firearms in the home. We have reminded residents that gun locks and gun turn-ins are available for free from the police department.

The Santa Cruz County Chiefs Association continues to explore a gun amnesty program. The Santa Cruz County Cruz Criminal Justice Council continues to discuss the possibility for a gun buyback program in Santa Cruz County.

There are at least 33 legislative bills proposed in California that deal with firearms and ammunition proposals. Staff is positioned to monitor these bills as they work themselves through the legislative process. The California Police Chief's Association is supporting SB53 that would require the Attorney General to maintain copies of ammunition purchase permits; and AB1296 that would increase the prohibitory period for persons who are placed in an approved facility for a 72-hour evaluation.

At the national level, a bill was defeated in the Senate that would have banned the sale, transfer, manufacture and importation of 100 specialty firearms and certain semiautomatic weapons. There continues to be discussion and proposals regarding additional gun legislation. Staff will continue to monitor the progress of gun legislation at the national level.

FISCAL IMPACT: None

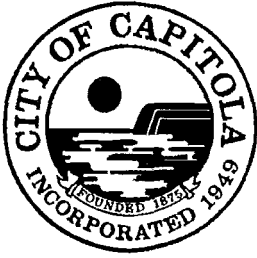
ATTACHMENTS: None

Report Prepared By: Rudy Escalante
Chief of Police

Reviewed and Forwarded
By City Manager 

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CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 11, 2013

FROM: CITY MANAGER'S DEPARTMENT

SUBJECT: UPDATED CELLULAR TELEPHONE USE ADMINISTRATIVE POLICY

RECOMMENDED ACTION: Approve the revised proposed Administrative Policy V-9 Mobile Communication Device (MCD) Use Policy.

BACKGROUND: The purpose of this policy update is to provide clear guidelines for the installation of Mobile Device Management (MDM) software on all Mobile Communication Devices (MCDs) that access City of Capitola resources, including email, files and network files. Both City of Capitola-owned MCDs and personal MCDs access City resources, the MDM software will be installed on all of those devices.

Currently, the management options on Android and Apple MCD are limited. If a case arises where a MCD's access to City resources needs to be blocked and data deleted, currently the only option the City has is to erase the entire phone. MDM software will allow the City to remove only City-data.

DISCUSSION: The City of Capitola recognizes that MCDs improve the level of City services by allowing employees to access City resources even when not at City facilities. This access however means that City data is stored on many devices that are not directly under City control. MDM software will allow the City to better manage those resources.

FISCAL IMPACT: There are approximately 50 MCDs that connect to City resources. The cost for the MDM software is \$4 per month per phone for an annual fiscal impact of \$2,400.

ATTACHMENT:

1. Updated Administrative Policy V-9 Mobile Communication Device (MCD) Use Policy.

Report Prepared By: Larry R. Laurent
Information System Specialist

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

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ADMINISTRATIVE POLICY

Number: V-9
 Issued: 11/10/10
 Revised: 4/11/2013
 Jurisdiction: City Council

Mobile Communication Device (MCD) Use Policy

I. PURPOSE

The purpose of this policy is to provide clear guidelines for the authorization, distribution and appropriate business use of Mobile Communication Devices (MCDs) by City employees and for the establishment of a cellular phone allowance.

II. POLICY

The City of Capitola recognizes that cellular Mobile Communication Devices (MCDs) enhance the level of City services by allowing employees to remain in contact with the office or with one another as the need arises. Technology has now made the MCD both practical and economical for work-related use and this policy establishes procedures and conditions for their authorization and use, to ensure accountability and to prevent improper use. This policy applies to the use of City issued cellular phones and the use of personal cellular phones for City business. The use of licensed frequency radio communication devices by personnel in the City Police Department is excluded from this policy.

III. DEFINITIONS

Mobile Communication Devices (MCDs) include any mobile communication device that provides for voice and/or data communications between two or more parties including, but not limited to, a cellular telephone, a text message device, a personal digital assistant, a smart phone, an air card, or a tablet that utilizes a wireless signal to provide Internet access.

Emergency responders are those employees the City Manager determines to have an essential role in responding to

IV. PROCEDURE

1. **PLAN ELEGIBILITY:** The City Manager has the responsibility of determining who shall be issued a City cell phone and who shall be part of a voice or voice/data stipend. The following criterion are to be considered:
 - a. Departmental requirements indicate having a cell phone is an integral part of performing the duties in the job description.
 - b. Performance of work that requires the employee to be out of the office on a regular basis where availability of conventional telephones is limited and the employee needs to be in contact with the office or key City personnel at all times.
 - c. Required to be on-call outside of normal work hours.
 - d. Critical decision maker.
 - e. Quantity of calls/minutes used.
 - f. Need for access and frequent updates to calendar, email, contacts, SMS and files while not in the office.

Item #: 9.D. Attach 1.pdf

Administrative Policy V-9

Mobile Communication Devices (MCD) Use Policy

Page 2 of 4

2. PLAN TYPES: The City provides for a two-tier cellular phone system.

- a. **City-Issued Cell Phones:** The City contracts with a service provider for a pool of minutes to be accessed by users using a City-issued Cellular phone. The City recognizes the employees will on occasion, need to make or receive personal telephone calls subject to the limitations in 3(b) of this policy.
- b. **Monthly Cell Phone Stipend:** The City issues stipends to eligible employees who in turn provide their own cell phone to use for City business.

3. CITY-ISSUED CELL PHONES

- a. Cell phones and wireless electronic data devices may be issued to employees to enhance the efficiency and effectiveness of communication. The City shall ensure that cell phone use is appropriate and that public funds are prudently spent.
- b. An employee's use of a City-owned cell phone is limited to official City business only. There shall be no personal use of City cell phones except in response to family emergencies, or unforeseen work schedule changes, and even under these circumstances, only when it is impossible or unreasonable to use a City landline telephone, public pay phone, or personal phone. When personal use is necessary, employees shall reimburse the City for the charges within a month of the City's receipt of the bill. Failure to declare personal calls or reimburse the City for such calls may result in disciplinary action.
- c. Employees should immediately report unauthorized use, theft or loss of a City-owned phone to their supervisor and/or Department Head and the City Information Technology staff. In the case of a lost or damaged City-owned phone or accessory, the employee may be responsible for reimbursing the City for the value of the equipment if the employee is determined to be negligent for its loss.
- d. All MCDs that are used for City business may be subject to the Public Records Act.

4. MONTHLY CELL PHONE STIPEND

- a. In lieu of a City-issued cellular phone, an employee may be paid a stipend for use of their personal cell phones for City business. The City Manager will determine which employees will be eligible.
- b. Allowance amounts will be in the amount of:
 - i. \$25 per month for cellular only and
 - ii. \$45 per month for cellular and data.
 - iii. \$45 per month for emergency responders who purchase and maintain a phone which is compatible with the City's direct connect system.The monthly allowance is intended to cover the portion of an employee's cell phone costs related to City business, and not off-set the entire cost of a cell phone.
- c. The allowance shall be paid to the designated employee by the City on a bi-weekly basis and is subject to income tax.
- d. Employees who receive a stipend must provide the City a cell phone number where the employee can be reached.

- e. The cell phone will be personally owned and under the responsibility of the employee. As the cell phone is personally owned by the employee, and the provided allowance is taxable income, the employee may use the cell phone for both business and personal purposes, as needed.
- f. Employees approved to receive a stipend shall be responsible for purchasing their own cell phone and enrolling it in their own monthly access plan.
- g. Failure to carry the designated cell phone or respond to calls may lead to revocation of cell phone stipend.
- h. Non-Exempt employees shall not use the data portion of their cell phone for city business during non working hours without prior approval from their supervisor.

5. SAFETY

- a. State law prohibits the use of cell phones while operating a vehicle unless the driver is using a hands-free device. There are two (2) exceptions to the law:
 - 1. Emergency services personnel are exempt from this law when operating an authorized emergency vehicle.
 - 2. The law does not apply to persons using their cell phone to contact law enforcement or public safety agencies for emergency purposes.
- b. With the exception of the above, employees shall not operate cellular phones and other wireless devices that may distract from safely operating a motor vehicle. Using cell phones or other devices while driving leads to increased risk of accident and liability to the City. To limit this risk, all employees shall adhere to the following:
 - 1. Use a hands-free device if employee must make or receive a call.
 - 2. Make calls before starting the vehicle and proceeding to your destination.
 - 3. Pull over or park in an appropriate manner before initiating a call.
 - 4. Allow voice mail to handle the incoming calls and return them at your safe convenience.
 - 5. Personal calls, except emergencies, while operating a City-owned vehicle are prohibited.
 - 6. Suspend conversations during hazardous driving conditions or situations.
 - 7. Do not take notes, look up phone numbers, or text message while driving.

6. SECURITY

- a. Regardless of the cell phone or wireless device option that is chosen (City-issued or Stipend), all MCDs connected to the City of Capitola internal network are required to have Mobile Device Management (MDM) software installed which will allow the City of Capitola to locate, disable and otherwise manage the MCD and any City of Capitola information or applications enabled or stored on the device in a secure fashion. Employees may not tamper with or disable the MDM security application. The City of Capitola is responsible for the selection and installation of the MDM software and will assume the cost for applicable software license fees.

Item #: 9.D. Attach 1.pdf

Administrative Policy V-9

Mobile Communication Devices (MCD) Use Policy

Page 4 of 4

- b. Upon termination of employment, or a determination by the employee or the employee's Department Head that the employee no longer has a need to access the City of Capitola network via a personally owned cell phone or wireless device, the systems administrator shall be notified to remove the MDM security application and all related City of Capitola data from the employee's cell phone or wireless device.

7. PRIVACY

- a. When using a City-issued MCD, or when conducting City of Capitola business on a personally owned MCD, the City of Capitola cannot and does not imply, extend, or guarantee any "right to privacy" for voice calls and/or electronic communications, including but not limited to call detail records, logs, voice mail messages, data storage, text messages, emails and address books.

This policy was approved by the City Council at its meeting of April 11, 2013, and is authorized by:

Jamie Goldstein, City Manager

JG/lrl