

City of Capitola Agenda

Mayor: Jacques Bertrand
Vice Mayor: Kristen Petersen
Council Members: Ed Bottorff
Yvette Brooks
Sam Storey



CAPITOLA CITY COUNCIL REGULAR MEETING

THURSDAY, APRIL 11, 2019

7:00 PM

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

All correspondences received prior to 5:00 p.m. on the Wednesday preceding a Council Meeting will be distributed to Councilmembers to review prior to the meeting. Information submitted after 5 p.m. on that Wednesday may not have time to reach Councilmembers, nor be read by them prior to consideration of an item.

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 Sam Storey, Kristen Petersen, Yvette Brooks, Ed Bottorff, and Mayor Jacques Bertrand

2. PRESENTATIONS

Presentations are limited to eight minutes.

A. Introduce New Police Officer

3. ADDITIONAL MATERIALS

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

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. CITY COUNCIL / STAFF COMMENTS

City Council Members/Staff may comment on matters of a general nature or identify issues for staff response or future council consideration. No individual shall speak for more than two minutes.

7. 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. Consider the March 28, 2019, City Council Regular Meeting Minutes
RECOMMENDED ACTION: Approve minutes.
- B. Appoint City Treasurer
RECOMMENDED ACTION: Appoint Capitola Finance Director Jim Malberg as city treasurer.
- C. Amend the Conflict of Interest Code to Reflect Updated Job Titles
RECOMMENDED ACTION: Approve resolution.
- D. Consider a Contract Amendment for Beach Shuttle Operations with MV Transportation, Inc., to Adjust the Hourly Rate of Compensation
RECOMMENDED ACTION: Approve a contract amendment with MV Transportation for operation of the beach summer shuttle increasing the hourly rate of compensation by 5 percent, to \$86.90.

8. GENERAL GOVERNMENT / PUBLIC HEARINGS

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

- A. Consider a Resolution Supporting Census 2020 Complete Count Committee
RECOMMENDED ACTION: Approve resolution and direct staff to include \$5,000 in funding for regional census outreach efforts in the Fiscal Year 2019-20 budget.

CAPITOLA CITY COUNCIL REGULAR MEETING AGENDA
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- B. Consider Village Decoration Policy
RECOMMENDED ACTION: Approve the recommended Village Streetscape Decorating Policy and proposed modifications to the Capitola Village Street Banner Program Policy, and provide direction regarding lighting on public right-of-way trees in Capitola Village.
- C. Introduce an Ordinance Amending Chapter 9 of the Capitola Municipal Code Pertaining to Cannabis
RECOMMENDED ACTION: Introduce an Ordinance to amend Chapter 9.61, Cannabis Sales, Processing and Cultivation, to remove the prohibition on retail sales and update the section to reference the required retail cannabis permit (Chapter 5.36) and conditional use permit (17.24.020.D.1b).
- D. Introduce Revised Zoning Code for Coastal Commission Certification
RECOMMENDED ACTION: Accept staff presentation, provide direction on revised code, and direct staff to initiate public review.

9. ADJOURNMENT

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 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 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 for review on the City’s website: www.cityofcapitola.org and at Capitola City Hall prior to the meeting. Agendas are also available at the Capitola Post Office located at 826 Bay Avenue, Capitola. 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 rebroadcasted at 8:00 a.m. on the Wednesday following the meetings and at 1:00 p.m. on Saturday following the first rebroadcast 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.cityofcapitola.org by clicking on the Home Page link “**Meeting Agendas/Videos.**” Archived meetings can be viewed from the website at any time.



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 11, 2019

FROM: Capitola Police Department
SUBJECT: Introduce New Police Officer

DISCUSSION: The Police Department is pleased to announce Michael Kilroy as a new police officer. He is a native of Watsonville and spent 20 years as a police officer for the Phoenix Police Department. Officer Kilroy took his oath of office on February 2, 2019, and is living in Capitola with his family.

Report Prepared By: Linda Fridy
City Clerk

Reviewed and Forwarded by:

A handwritten signature in blue ink, appearing to be "JG", is written over a horizontal line.

Jamie Goldstein, City Manager

4/5/2019



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 11, 2019

FROM: City Manager Department

SUBJECT: Consider the March 28, 2019, City Council Regular Meeting Minutes

RECOMMENDED ACTION: Approve minutes.

DISCUSSION: Attached for City Council review and approval are the minutes of the regular meeting of March 28, 2019.

ATTACHMENTS:

1. 3-28 action draft minutes

Report Prepared By: Linda Fridy
City Clerk

Reviewed and Forwarded by:

A handwritten signature in blue ink, appearing to be "JG", is written over a horizontal line.

Jamie Goldstein, City Manager

4/5/2019

**DRAFT
CAPITOLA CITY COUNCIL
REGULAR MEETING ACTION MINUTES
THURSDAY, MARCH 28, 2019**

Mayor Bertrand called the meeting to order at 7 p.m.

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

Council Member Yvette Brooks: Present, Council Member Ed Bottorff: Present, Council Member Sam Storey: Present, Vice Mayor Kristen Petersen: Present, Mayor Jacques Bertrand: Present.

2. PRESENTATIONS

- A. Introduce New Information Technology Specialist
- B. Introduce New Assistant Planner

3. ADDITIONAL MATERIALS

4. ADDITIONS AND DELETIONS TO AGENDA

5. PUBLIC COMMENTS

Rachel Kippin, new executive director of O'Neill Sea Odyssey, introduced herself and invited the Council to Dan Haifley's retirement party April 11.

6. CITY COUNCIL / STAFF COMMENTS

Council Member Petersen invited the community to a new-owner ribbon cutting at Zizzo's Coffee on March 29.

Mayor Bertrand attended the City's information session on the Brommer Street Project and reported positive feedback on the Jade Street speed bumps. He went to a City of Santa Cruz presentation on the San Lorenzo River habitat last week.

Public Works Director Steve Jesberg noted that two new colors of lights have been installed in the Village for comparison.

7. CONSENT CALENDAR

MOTION:	ADOPT AS RECOMMENDED
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Sam Storey, Council Member
SECONDER:	Ed Bottorff, Council Member
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

- A. Consider the March 14, 2019, City Council Regular and Special Meeting Minutes
RECOMMENDED ACTION: Approve minutes.
- B. Approval of City Check Registers Dated February 1, February 8, February 15 and February 22, 2019
RECOMMENDED ACTION: Approve check registers.

Attachment: 3-28 action draft minutes (Approval of City Council Minutes)

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES
March 28, 2019

- C. Planning Commission Action Minutes
RECOMMENDED ACTION: Receive minutes.
- D. Employee Criminal Background Check Resolution
RECOMMENDED ACTION: Adopt **Resolution No. 4143.**

8. GENERAL GOVERNMENT / PUBLIC HEARINGS

- A. Santa Cruz County Youth Violence Prevention Task Force Report
RECOMMENDED ACTION: Receive report.

Julie Burr from United Way and Capitola Police Sergeant Sarah Ryan presented the report.

RESULT: RECEIVED REPORT

- B. 835 BAY AVE. #17-003 APNs: 035-011-03, 035-381-01
Temporary Use Permit for the Storage of Vehicles for the Toyota Dealership in the CC (Community Commercial) Zoning District.
Environmental Determination: Categorical Exemption
Property Owner: Redtree Properties
Representative: Bruce Feinberg, filed: 2/13/19 [730-10]
RECOMMENDED ACTION: Approve the requested permit extension for two additional years.

Community Development Director Katie Herlihy modified her recommendation to grant her authority to approve the two-year temporary use permit upon removal of Ideal Homes' monument sign and temporary model home from the site.

April Perry from Redtree Properties and Bruce Feinberg from Toyota and a Santa Cruz County Sanitation representative answered questions from the Council.

MOTION:	AUTHORIZE THE COMMUNITY DEVELOPMENT DIRECTOR TO GRANT THE TEMPORARY USE PERMIT AS AMENDED.
RESULT:	ADOPTED AS AMENDED [UNANIMOUS]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Yvette Brooks, Sam Storey
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

- C. Consider Updated Capitola Village and Wharf Business Improvement Area Contract
RECOMMENDED ACTION: Authorize the City Manager to enter into an updated agreement with the Capitola Village and Wharf Business Improvement Area and approve revised budget.

CVWBIA members Carin Hanna and Devon Salter answered questions.

Attachment: 3-28 action draft minutes (Approval of City Council Minutes)

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES
 March 28, 2019

MOTION:	APPROVE THE REVISED BUDGET WITH GUIDANCE TO INCLUDE POLYSTYRENE EDUCATION WITHIN IMPROVEMENTS AND AUTHORIZE THE CITY MANAGER TO SIGN THE UPDATED CONTRACT
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Yvette Brooks, Council Member
SECONDER:	Sam Storey, Council Member
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

D. Consider Fiscal Year 2019/20 Budget Principles and Goals (Continued from March 14) [330-05]

RECOMMENDED ACTION: Adopt the Fiscal Year 2019/20 Budget Principles and Goals, and identify related key projects-programs.

MOTION:	ADOPT THE BUDGET PRINCIPLES AND GOALS AS PRESENTED
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Kristen Petersen, Vice Mayor
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

E. Removal of Optional CalPERS Membership for Future Council Members
RECOMMENDED ACTION: Adopt **Resolution No.4144** and pass the first reading of the related ordinance.

In public comment, Carin Hanna congratulated the Council on taking this step.

MOTION:	ADOPT THE RESOLUTION
RESULT:	ADOPTED [4 TO 1]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Kristen Petersen, Vice Mayor
AYES:	Yvette Brooks, Ed Bottorff, Kristen Petersen, Jacques Bertrand
NAYS:	Sam Storey

9. **ADJOURNMENT**

The meeting adjourned at 8:18 p.m.

 Jacques Bertrand, Mayor

ATTEST:

 Liz Nichols, Deputy Clerk

Attachment: 3-28 action draft minutes (Approval of City Council Minutes)



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 11, 2019

FROM: City Manager Department

SUBJECT: Appoint City Treasurer

RECOMMENDED ACTION: Appoint Capitola Finance Director Jim Malberg as city treasurer.

BACKGROUND/DISCUSSION: Capitola voters approved making the city treasurer an appointed position at the November 2018 election. On January 10, 2019, the City Council directed staff to bring forward an ordinance that would allow the appointment of the finance director as city treasurer with a nomination by the city manager and approval by the City Council. Ordinance No. 1028 was introduced on February 14, 2019, and was adopted by the City Council on February 28, 2019.

On January 24, the City Council approved the interim appointment of Finance Director Jim Malberg during the period until the ordinance officially took effect. That was March 31. City Manager Jamie Goldstein now nominates Director Malberg as treasurer.

FISCAL IMPACT: Appointing a staff member as the treasurer saves the \$3,000 annual stipend formerly received by the elected treasurer.

Report Prepared By: Jamie Goldstein
City Manager

Reviewed and Forwarded by:

Jamie Goldstein, City Manager

4/5/2019



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 11, 2019

FROM: City Manager Department

SUBJECT: Amend the Conflict of Interest Code to Reflect Updated Job Titles

RECOMMENDED ACTION: Approve resolution.

BACKGROUND: The California Political Reform Act requires jurisdictions to adopt a Conflict of Interest Code to identify positions that involve decision-making or participation in decision-making that may affect the personal economic interests of people holding those positions. These positions are in addition to those mandated in Government Code 87200. Once designated, the individuals occupying those positions are required to make annual disclosures in a Statement of Economic Interest (Form 700) regarding sources of income. These may include investments, interest in real property, and any business positions held outside of their employment with the City, and are identified in order to avoid potential conflicts of interest.

DISCUSSION: Following the regular update of the City's Conflict of Interest Code in February 2018, the Department of Public Works revised some of its positions, adding a senior mechanic position and redirecting many of the responsibilities of the now-retired maintenance superintendent to the field supervisor. These positions need to be added as required reporters in the code. Additionally, the Oversight Board to the Successor Agency was dissolved with those responsibilities transferring to Santa Cruz County. The proposed resolution adds the new Public Works positions and removes the Oversight Board.

FISCAL IMPACT: None.

Report Prepared By: Linda Fridy
City Clerk

Reviewed and Forwarded by:

Jamie Goldstein, City Manager

4/5/2019

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
RESCINDING RESOLUTION NO. 4104 AND ADOPTING A REVISED
CONFLICT OF INTEREST CODE FOR THE CITY OF CAPITOLA**

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

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

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

WHEREAS, the City of Capitola adopted a revised Conflict of Interest Code effective on February 8, 2018, by Resolution No. 4104; and

WHEREAS, the Conflict of Interest Code is currently being updated to add to the list of designated positions in Appendix C and to clarify its application to designated persons.

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

1. As of April 11, 2019, Resolution No. 4104 is rescinded, and this resolution shall become effective.
2. This resolution does not pertain to the following offices because these offices are already regulated by and subject to Government Code Section 87200: Council Members, Planning Commissioners, City Manager, City Attorney, and City Treasurer.
3. The terms of 2 Cal. Code of Regs. Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and, along with the attached Appendix "A" and "B" in which members and employees are designated and disclosure categories are set forth, constitute the Conflict of Interest Code of the City of Capitola.
4. Upon electronic filing or receipt of the statements of the Council Members, Planning Commission Members, City Manager, City Attorney, and City Treasurer, the City Clerk shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission. Designated employees shall file statements of economic interests with the City Clerk who will make the statements available for public inspection and reproduction (Government Code Section 81008). The City Clerk will retain statements for all designated employees.

Amend Conflict of Interest Code
April 11, 2019

I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the City Council of the City of Capitola on the 11th of April, 2019, by the following vote:

Jacques Bertrand, Mayor

ATTEST:

Linda Fridy, City Clerk

APPENDIX "A"

LIST OF DESIGNATED POSITIONS

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

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

The City Manager may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The City Manager's

Amend Conflict of Interest Code
April 11, 2019

determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

APPENDIX "B"

DISCLOSURE CATEGORIES

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

- CATEGORY A.** All sources of income, interests in real property, and investments and business positions in business entities.
- CATEGORY B.** Investments and positions in business entities, and sources of income, including interests in real property, if the source is of the type which provide services, supplies, materials, machinery, or equipment of the type utilized by the City of Capitola.
- CATEGORY C.** Investments and positions in business entities, and sources of income, if the source is of the type which provide services, supplies, materials, machinery or equipment of the type utilized by the designated employee's department or division.
- CATEGORY D.** Investments and positions in business entities, and sources of income, including interests in real property, if the source is of the type that is subject to the regulatory permit or licensing authority by the department in which that person is employed or if the source of income is from land development, construction or the acquisition or sale of real property by the City of Capitola.

General Provisions

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

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



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 11, 2019

FROM: Public Works Department

SUBJECT: Consider a Contract Amendment for Beach Shuttle Operations with MV Transportation, Inc., to Adjust the Hourly Rate of Compensation

RECOMMENDED ACTION: Approve a contract amendment with MV Transportation for operation of the beach summer shuttle increasing the hourly rate of compensation by 5 percent, to \$86.90.

BACKGROUND: MV Transportation has operated the beach summer shuttle since 2004. In 2004 it was the low bidder of three bidders. The service contract has been subsequently bid two additional times, in 2009 and 2014, and in these years MV Transportation (MV) was the only bidder.

MV has provided excellent service over the past 15 years. It has had only one shuttle breakdown during over this span and has responded to every service change the City has requested. It originally operated the shuttle out of the parking lot off of Bay Avenue near the Post Office and assisted in transitioning to operating out of the lower Beach and Village Parking lot in 2014. MV has also provided expanded shuttle service for the Chamber of Commerce for the Art and Wine Festival.

DISCUSSION: The provisions of the contract call for annual increases in rates based on Consumer Price Index (CPI) changes. Unfortunately, these increases have not kept up with costs, particularly personnel and fuel costs. This year the CPI increase under the contract is 3.98%.

Last season the City adjusted the rate to compensate MV for increased fuel costs pursuant to the terms of the contract. This year MV requested an additional increase due to increased personnel costs. Specifically, MV requested a 12 percent increase to \$89.42/hour. Staff discussed this increase with MV, who agreed to the contract-prescribed CPI increase of 3.98 percent plus an additional 5 percent for a total increase of 8.98 percent, which yields a new rate of \$86.90/hour. Staff believes this additional 5 percent increase is warranted and fair and recommends approval.

The contract will be re-bid this fall for another five-year contract.

FISCAL IMPACT: The proposed amendment will increase the overall cost of the contract by \$2,500 for 2019. Approximately one-third of this cost will be paid in fiscal year 2018/19 and two-

Beach Shuttle Operator Contract Amendment
April 11, 2019

thirds in 2019/20. The 2018/19 costs can be paid with funds in the allocated budget and the 2019/20 allocation will be adjusted as part of the budget process.

ATTACHMENTS:

1. MV Transportation Contract Amendment
2. MV Transportation Email

Report Prepared By: Steve Jesberg
Public Works Director

Reviewed and Forwarded by:



Jamie Goldstein, City Manager

4/5/2019

2nd AMENDMENT TO THE
SUMMER SHUTTLE AGREEMENT

between

CITY OF CAPITOLA AND MV TRANSPORTATION, INC.

The City of Capitola and MV Transportation Inc, hereby agree to the following Amendment to the Contract dated April 3, 2015:

- 1) The hourly rate of compensation for the 2019 season shall be \$86.90.

All other terms and conditions of the Summer Shuttle Agreement remain in full force and effect.

CONTRACTOR: MV Transportation, Inc.

By:

Date: _____

CITY OF CAPITOLA

By: Benjamin Goldstein, City Manager

Date: _____

APPROVED AS TO FORM:

Reed Gallogly , City Attorney

Date: _____

Attachment: MV Transportation Contract Amendment (Beach Shuttle Operator Contract Amendment)

Jesberg, Steve (sjesberg@ci.capitola.ca.us)

From: Uharriet, Danielle (duharriet@ci.capitola.ca.us)
Sent: Tuesday, March 19, 2019 9:07 AM
To: Jesberg, Steve (sjesberg@ci.capitola.ca.us)
Subject: FW: Capitola business for summer 2019

Can we discuss?

From: Scott Germann <scott.germann@mvtransit.com>
Sent: Monday, March 18, 2019 6:12 PM
To: Uharriet, Danielle (duharriet@ci.capitola.ca.us) <duharriet@ci.capitola.ca.us>
Cc: Sulaiman Arsala <sulaiman.arsala@mvtransit.com>; Francine Perea <francine.perea@mvtransit.com>
Subject: Capitola business for summer 2019

Danielle,

I would again like to thank you for your business, and look forward to continuing to provide Capitola with service in the new term.

As we briefly discussed, our costs have increased over the prior year. This has been driven by the labor market with regards to drivers.

We believe we may have found some stability, and have been able to recently begin to stem our turnover. With all this being said, we've tried to remain as competitive as possible.

We've improved our insurance rates and improved our worker's compensation rates which have helped to offset a great deal of the increase.

Previously, our labor rate was at \$22.00 and now it is \$26.00, including incentives. This equates to more than an 18% increase; however, we've held our increase to you to about 12%.

Our new rate for the new term will be: **\$89.42 per hour**. Again, we would really like to regain your business for the new term. Please consider our proposal, and let me know at your earliest convenience.

Have a great week!

Regards,

Scott Germann

Scott Germann
Regional Vice President
 925.357.7599



Attachment: MV Transportation Email (Beach Shuttle Operator Contract Amendment)



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 11, 2019

FROM: City Manager Department

SUBJECT: Consider a Resolution Supporting Census 2020 Complete Count Committee

RECOMMENDED ACTION: Approve resolution and direct staff to include \$5,000 in funding for regional census outreach efforts in the Fiscal Year 2019-20 budget.

BACKGROUND: Every 10 years, the United States Census counts every resident in the nation. A complete and accurate count of the State of California's population is essential to the State because the data collected by the Census determines the number of seats each state has in the U.S. House of Representatives and is also used to distribute billions of dollars in federal funds to local communities. More than 70 federal programs that benefit California, including education, health, and human services, use Census numbers as part of their funding formulas. For every Californian missed by the 2020 Census count, the State is expected to lose approximately \$1,950 per person, per year, for 10 years, in federal program funding.

DISCUSSION: To assure an accurate count, the state established the California Complete Count Committee to encourage full participation in the 2020 Census. The Committee aims to address the following goals:

- Help build the capacity of the California Census Office in identifying hard-to-count communities, building local partnerships, and finding appropriate programs and other funding relevant to the outreach effort;
- Increase awareness and knowledge about the 2020 Census in hard-to-count communities; and
- Ensure that hard-to-count populations in California are accurately counted in the 2020 Census.

There are two significant changes for the 2020 Census. For the first time, census responses will be primarily completed online. The second significant change is the addition of a citizenship status question and the potential to reduce participation from immigrant communities, especially given the current social and political climate. That question is currently being challenged in court by the California Attorney General on the grounds that it could alienate certain populations from responding despite strict confidentiality laws for census responses.

Each county has been asked to create its own Complete Count Committee; the Santa Cruz County Board of Supervisors formed our regional Complete Count Committee in January, 2019.

Census 2020 Support Resolution
April 11, 2019

Our committee is expected to receive \$111,586 from the California Complete Count Committee.

Each local jurisdiction is also contributing funding towards the Census effort. Watsonville is coordinating their own local census efforts. While the cities of Santa Cruz and Scotts Valley are still in the process of receiving authorization from their respective City Councils, staff anticipates funding contributions to the regional Complete County Committee will be made as follows:

Jurisdiction	Population (est.)	Funding Contribution (est.)
State of California	--	\$111,586
County of Santa Cruz (Unincorporated)	135,000	\$100,000
City of Santa Cruz	65,000	\$40,000
City of Scotts Valley	12,000	\$5,000
City of Capitola	10,000	\$5,000
TOTAL:		\$256,586

FISCAL IMPACT: Approval of the resolution will support Santa Cruz County's efforts to receive \$111,586 in State funding for 2020 Census outreach, as well as earmarking \$5,000 of future funds out of Capitola's Fiscal Year 2019-20 budget.

Report Prepared By: Linda Fridy
City Clerk

Reviewed and Forwarded by:

Jamie Goldstein, City Manager

4/5/2019

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA IN
SUPPORT OF THE SANTA CRUZ COUNTY 2020 CENSUS
COMPLETE COUNT COMMITTEE**

WHEREAS, the U.S. Census Bureau is required by Article I, Section 2 of the United States Constitution to conduct an accurate count of the nation's population every ten years; and

WHEREAS, a significant amount of work is required in order to achieve full participation in the 2020 U.S. Census, especially in California which has one of the highest hard-to-count populations in the nation; and

WHEREAS, federal and state funding is allocated to communities and decisions are made on matters of national and local importance based, in part, on census data and housing; and

WHEREAS, information from the 2020 Census and American Community Survey are vital tools for economic development and increased employment; and

WHEREAS, the information collected by the census is confidential and protected by law; and

WHEREAS, Santa Cruz County is eligible to receive \$111,586 from the California Complete Count Census 2020 Office, based on population and the California Hard-to-Count Index created by the California Department of Finance, Demographic Research Unit and modeled on the U.S. Census Bureau's Hard-to-Count Score of past censuses; and

WHEREAS, Santa Cruz County has formed a Complete Count Committee to bring together a cross section of community members who will use their local knowledge and expertise to reach out to all persons of our community.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Capitola that it supports the formation and goals of the Santa Cruz County Complete Count Committee.

I HEREBY CERTIFY that the above and foregoing Resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 28th day of March, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Jacques Bertrand, Mayor



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 11, 2019

FROM: Public Works Department
SUBJECT: Consider Village Decoration Policy

RECOMMENDED ACTION: Approve the recommended Village Streetscape Decorating Policy and proposed modifications to the Capitola Village Street Banner Program Policy, and provide direction regarding lighting on public right-of-way trees in Capitola Village.

BACKGROUND: The placement of decorations along the streets of Capitola Village, particularly during the holiday season, has historically been designed and installed as a quasi-partnership between private groups representing the businesses, such as the Chamber of Commerce or Village and Wharf Business Improvement Association (BIA), and the City. Typically, the Chamber or BIA would provide decorations such as lights for the street trees and Christmas trees, and Public Works crews would install them.

This past holiday season, the selection of bright white rope lights purchased by the BIA met with quite a bit of community discussion. At the February 14, 2019, City Council meeting the Council discussed the current lighting and received input from members of the BIA. Following this discussion, the Council provided the following direction:

- Leave current tree lights up for comparison with other options
- Install no additional lights on other trees
- Install, at city expense, “warm white” rope lights for a comparison
- Direct staff to create a policy on Village enhancements on public property
- Encourage the BIA to enlist a new Council representative

DISCUSSION: As directed, one “warm white” and one “pearl white” rope light was installed on two trees at the intersection of Capitola Avenue and San Jose Avenue during the week of March 25, 2019. In addition, a dimmer switch was installed to the circuit for the tree lights along Capitola Avenue to allow the brightness of the lights to be adjusted.

Staff is seeking Council direction regarding the preferred type of tree light: bright white, warm white, or pearl white and whether those lights should be dimmed or used at full brightness.

Further, staff has prepared the draft Village Streetscape Decorating policy for Council consideration. This policy provides direction to sponsors who wish to place decorative items in the Village streetscape, including tree lights. Similar to the Special Event Policy, the Village

Village Public Area Decoration Policy
April 11, 2019

Streetscape Decorating policy requires Council approval for initial decorating programs, but allows subsequent programs to proceed with City Manager approval if no significant changes are proposed.

In preparation of the Village Streetscape Decorating Policy a conflict with the Capitola Village Street Banner Program Policy was identified regarding the placement of banners on streetlights. To resolve this issue, an amended Capitola Village Street Banner Program Policy has been prepared for Council's consideration.

FISCAL IMPACT: Implementation of the proposed Village Streetscape Decorating policy requires Public Works office and field staff involvement. The costs of this work has historically been incorporated in the Public Works budget and is estimated to cost less than \$2,000 annually. Under the proposed policy the cost of decorations will be borne by project sponsors.

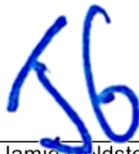
The cost to replace the existing tree lights with a different color rope light would be approximately \$4,200. If replacement is warranted, it has not been determined who would pay for the new lights.

ATTACHMENTS:

1. Draft Village Streetscape Decorating Policy
2. I-17 Capitola Village Street Banner Program Revised Draft

Report Prepared By: Steve Jesberg
Public Works Director

Reviewed and Forwarded by:



Jamie Goldstein, City Manager

4/5/2019



DRAFT
ADMINISTRATIVE POLICY

Number: TBD
Issued: TBD

Jurisdiction: City Council

VILLAGE STREETScape DECORATIONS

PURPOSE

The purpose of this policy is to provide a process for the review and authorization of decorations placed in public spaces within Capitola Village. Decorations may include tree lighting, banners hung from streetlights, and any temporary placement of decorative items such as a seasonal décor or holiday celebrations.

This policy is intended to regulate the placement of decorations independent from approved Special Events. Any decorations proposed as part of a Special Event shall be reviewed and approved through the Special Event process.

For the sole purpose of this policy, the term “Village streetscape” includes all public road rights-of-way in the CV (Central Village) zoning district including streets, sidewalks, green belts (Lawn Way), and Esplanade Park.

I. POLICY

All proposals for the installation or placement of decorations shall be submitted to the Public Works Department a minimum of sixty (60) days prior to the desired date of installation. All proposals will be reviewed by Public Works staff who will consult with other City departments as needed.

Village streetscape decorations must promote the Village or City. Decorations cannot advertise any specific business or product.

All new proposed Village decorations must be approved by the City Council. Applicants are advised not to purchase any decorations until City approval is granted.

Previously approved Village decorations may be approved by the City Manager provided the City Manager can make all of the following findings:

1. The decorations were previously approved by the City Council.
2. The decorations were installed the previous year.
3. There are no significant modifications or variations to the decorations as compared to prior years.
4. There were no major issues with the decorations in recent prior years.
5. The decorations, as proposed, can function safely.

6. The decorations will not cause undue interference with previously approved or ongoing activities, construction, road maintenance, public transit systems, or traffic.
7. The decorations provide a benefit to the Village or City.

If the City Manager cannot make the above findings, the proposal shall be denied, or the City Manager may refer the proposal to the City Council. The City Manager's approval/denial of a decorating proposal is appealable to the City Council. All appeals must be made pursuant to Chapter 2.52 of the Capitola Municipal Code.

The City Manager may refer any recurring decorating proposal to the City Council for consideration. Any Council Member may require that any recurring decorating plan be brought to the City Council for consideration by making such a request prior to the City Manager's approval.

II. INSURANCE

All entities installing decorations on Village streetscape must provide proof of general liability insurance that names the City of Capitola as an additional insured. Insurance coverage must be maintained for the duration that the decorations are installed. To determine the current levels and amount of coverage required, contact the City's Personnel office at (831) 475-7300.

III. INSTALLATION

Installation of all decorations must be coordinated with the Department of Public Works.

All decorations to be installed by the City must be delivered to the City Public Works Corporation Yard located at 430 Kennedy Drive, Capitola CA 95010 at least one (1) week prior to the installation date.

If the applicant proposes to self-install decorations, the Public Works Department must be notified 72 hours in advance of the installation date. Any corrective action to applicant-installed decoration must be remedied immediately by the applicant upon notice from the City. Failure by the applicant to take required corrective actions may result in removal of the decoration by the Public Works Department. Applicant will be charged for any costs associated with removal due to failure by the applicant to take corrective action.

The City reserves the right to remove Village streetscape decorations at any time for any or no reason.

IV. PROCEDURE

- A. Submit Village Streetscape proposals to Public Works 60 days prior to desired installation. Plan shall include the following:
 - 1) Description of decoration purpose and theme
 - 2) Date of installation and date of removal
 - 3) Description of decorations including:

- a. Description of individual elements
 - b. Pictures or sketches required for all elements
 - c. Manufacturer or supplier and color of any lights
 - d. Size of elements if applicable
- 4) Placement (use of a plan sheet is encouraged)
 - 5) Insurance certificate
- B. Initial review by applicable Public Works Department
 - C. Public Works will route to City Departments
 - D. Approval by the City Manager or City Council
 - E. Public Works Department will issue notice of approval

This policy is approved and authorized by

Jamie Goldstein
City Manager



ADMINISTRATIVE POLICY

Number: 1-17
 Issued: 10/23/03
 Revised: 01/24/08
 Revised: 09/24/15
Revised: TBD
 Jurisdiction: City Council

CAPITOLA VILLAGE STREET BANNER PROGRAM POLICY

I. PURPOSE

The Street Banner Program provides a service to community nonprofits and public service organizations that need an effective tool to promote events and public information of interest and benefit to Capitola residents and visitors. Street banners enhance the streetscape of Capitola Village, by adding a vibrant element that enlivens the mobility experience for pedestrians, cyclists, transit users, and drivers.

This policy covers the banners flown on the City-owned banner poles on Monterey Avenue and Capitola Avenue. Banners flown from City streetlights are covered under the Village Decorations Policy.

II. POLICY

It is the Policy of the City of Capitola to provide community nonprofits and public service organizations a cost-effective, high-impact, place-based tool for engaging the public in promoting events, raising awareness, and communicating key messages.

Nonprofit groups, public and governmental agencies, and public information campaigns may display Promotional Street Banners for charitable, educational, arts, community, and public interest activities, regulations and events. Approved special events that have significant impacts to the community may also display Informational Street Banners. The City prohibits the use of Street Banners for commercial, political or religious messages, advertising or campaigns.

III. SPECIFICATIONS

1. Installation Period is a maximum of two (2) weeks.
2. Authorized locations:
Capitola Avenue at Riverview Drive or Monterey Avenue at Park Place
3. Banners shall be a minimum of 3' high x 14' wide to a maximum of 3' high x 18' wide. No exceptions.
4. Base fabric shall be 18 oz. heavyweight vinyl banner material.
5. D-rings attached to the banner corners with reinforced webbing to provide a place to attach a rope or other tie down to the banner.
6. Wire cable sewn into the top hem is recommended.
7. Wind slits spaced ~10" apart from each other and at least 4" from the edges of the banner.
8. Banners should be printed double-sided.
9. Back-to-back banners are not permitted.

IV. PROCEDURE

1) Banner Sign. Per Capitola Municipal Code, Chapter 17.57 Signs, "Banner Sign" means a sign that hangs over a public street or walkway made of fireproof cloth or canvas, which is displayed on a temporary basis to advertise a special event. Such temporary type signs are exempt from the provisions of the sign code enforced by the Community Development Department. Public Banners can only be displayed on city ~~utility/streetlight poles and~~ banner poles. Design review approval of the Public Works Director is required prior to displaying any banner in city right-of-way.

2) Application Required. No person, nonprofit corporation, and any department or agency shall install a banner in the City of Capitola, without submitting to the Public Works Department an application and obtaining approval pursuant to this administrative policy. Application submittal requirements include:

- A. Name, address, phone number, email address of the applicant and organization;
- B. Name of the event or topic;
- C. Banner text;
- D. Date of the event;
- E. Installation and removal dates;
- F. Name and phone number of person who will pick up the banner;
- G. Color graphic of the banner design including the dimensions.

3) Banner Review and Approval Process. The Public Works Director and /or designee shall review the application for compliance with the purpose and the standards set in this policy. Upon determination of compliance of a proposed banner with this policy, the application shall be approved, if space is available.

4) Banner Schedules and Installation. The Public Works Department shall be responsible for maintaining a banner schedule on a calendar year basis. Banners shall be scheduled at the discretion of the Public Works Director to best benefit the City. Nothing in the policy constitutes a guarantee of space availability for a given event or date. Banners may only be placed by Public Works staff or authorized personnel.

5) Banner Content. Banners may include the name of the event, dates and times, locations, logos and other graphics and web site addresses.

- A. Informational Street Banners must primarily serve to provide public notification.
- B. Promotional Street Banners may include information advertising the event, program, or regulation.

This policy is approved and authorized by:



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 11, 2019

FROM: Capitola Police Department

SUBJECT: Introduce an Ordinance Amending Chapter 9 of the Capitola Municipal Code Pertaining to Cannabis

RECOMMENDED ACTION: Introduce an Ordinance to amend Chapter 9.61, Cannabis Sales, Processing and Cultivation, to remove the prohibition on retail sales and update the section to reference the required retail cannabis permit (Chapter 5.36) and conditional use permit (17.24.020.D.1b).

BACKGROUND: In 2014 the City passed Ordinance No. 989 which banned commercial cannabis activity in the City. Following the passage of Proposition 64 in 2016 the City Council amended that ordinance and directed staff to review options to regulate commercial cannabis activity. On July 26, 2018, the City Council adopted Ordinance No. 1021 adding Capitola Municipal Code (CMC) Chapter 5.36: Retail Cannabis Licenses, establishing a licensing structure for two cannabis retail permits and amending CMC Section 17.24.020 to authorize retail cannabis sales in the RC (Regional Commercial Zoning District). The ordinance was written to only become effective upon the certification of the passage of a tax for retail cannabis sales by voters.

In the November 2018 General Municipal Election, Capitola residents passed Measure I authorizing a retail tax on cannabis sales. On December 13, 2018, Council adopted Resolution No. 4136; certifying the election results and enacting Ordinance No. 1023 for a cannabis tax and approving Ordinance No. 1021 establishing a process for retail sales of cannabis in the RC district. The cannabis tax took full effect on January 1, 2019.

DISCUSSION: The City's original prohibition on commercial cannabis activity is codified in CMC Chapter 9.61: Marijuana Sales, Processing, and Cultivation. Specifically, it prohibits all indoor and outdoor cultivation of marijuana except in compliance with the Compassionate Use Act; possession, use, and cultivation in accordance with the Adult Use of Marijuana Act (AUMA or Proposition 64), and testing facilities that do not involve other prohibited activities. All other commercial marijuana activities are expressly prohibited in Chapter 9.61.

The proposed Ordinance amends CMC Chapter 9.61 to make it consistent with the voter-approved Chapter 5.36 and 17.24.020, updating the language to prohibit any business or premise to sell cannabis, whether medical (medicinal) or adult use (recreational) within the City of Capitola unless the business holds both a Capitola Retail Cannabis License (Capitola

Ordinance Update Chapter 9
April 11, 2019

Municipal Code 5.36.030) and a Conditional Use Permit for Retail Cannabis Establishments (Capitola Municipal Code 17.24.020.D.1.b.). The amended language changes the term "marijuana" to "cannabis," creating consistency within the Municipal Code while following State guidelines related to proper and legal terminology. It also removes redundant language regarding the personal possession, use, and cultivation of recreational marijuana in accordance with AUMA, which became law in November 2016.

FISCAL IMPACT: None

Report Prepared By: Andrew Dally
Police Captain

Reviewed and Forwarded by:



Jamie Goldstein, City Manager

4/5/2019

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF
CAPITOLA
REGARDING ~~CANNABIS MARIJUANA~~ SALES, PROCESSING AND
CULTIVATION

THE CITY COUNCIL OF THE CITY OF CAPITOLA DOES ORDAIN AS FOLLOWS:

Section 1: Chapter 9.61 of the Capitola Municipal Code is hereby amended to read as follows:

9.61.010 Findings

The City Council of the City makes the following findings:

- A. In 1996, the voters of the State of California approved Proposition 215, also known as the Compassionate Use Act (CUA), codified at California Health and Safety Code section 11362.5 et seq.
- B. On January 1, 2004, S.B. 240, known as the “Medical Marijuana Program” (MMP) (codified at Health and Safety Code section 11362.7 through 11362.83) went into effect to clarify the scope of the CUA.
- C. On January 9, 2014, the City Council adopted Ordinance No. 989 to regulate the processing and cultivation of medical marijuana.
- D. On November 8, 2016, California voters approved the Control, Regulate, and Tax Adult Use of Marijuana Act (AUMA), which became effective immediately. Among other things, AUMA decriminalizes under state law the possession, use, transport, and purchase of limited amounts of non-medical marijuana for individuals who are 21 years of age or older. AUMA decriminalizes under state law the planting, cultivation, harvesting, drying, and processing (“cultivation activities”) of up to six marijuana plants in, or upon the grounds of, a private residence, but at the same time permits local jurisdictions to enact and enforce reasonable regulations to regulate indoor cultivation activities and to completely prohibit cultivation activities outdoors upon the grounds of a private residences until the California Attorney General determines that non-medical use of marijuana is lawful in the State under federal law.
- E. To regulate commercial use of marijuana, the AUMA added Division 10 (Marijuana) to the Business and Professions Code, which grants state agencies “the exclusive authority to create, issue, renew, discipline, suspend or revoke” licenses for businesses including the transportation, storage, distribution, sale, cultivation, manufacturing, and testing of marijuana.
- F. The AUMA authorizes cities to completely prohibit the establishment or operation of any marijuana business licensed under Division 10 within its jurisdiction including marijuana dispensaries, marijuana retailers, and marijuana delivery services. Absent appropriate local regulation authorized by the AUMA, state regulations will control marijuana activities.
- ~~G. Cannabis Marijuana~~ activities can create negative impacts relating to overall health, safety, and well-being of City residents. To the extent allowed by California law, a prohibition of commercial marijuana processing and cultivation is necessary to avoid the risks

of adverse health effects, criminal activity, loitering, offensive odors, indoor structural damage, and electrical fire hazards that may result from such activities.

H. On November 6, 2018, Capitola residents passed a ballot measure authorizing the establishment of a tax on retail cannabis sales. Ordinance 1023 establishing a cannabis tax was considered adopted on December 13, 2018, the date the City Council adopted Resolution No. 4136 certifying the November 6, 2018, General Municipal Election.

G-I. On December 13, 2018, ordinance 1021 became effective, adding Chapter 5.36 Retail Cannabis Licenses establishing a licensing structure for cannabis retail businesses and amending Chapter 17.24 "Commercial and Industrial Zoning Districts" section 17.24.020 to authorize retail cannabis sales in the CR (Regional Commercial) zoning district.

9.61.020 Purpose and Intent

A. It is the purpose and intent of this chapter to promote the health, safety, and general welfare of the residents and businesses within the City by regulating the sales, cultivation and processing of cannabis marijuana.

B. Nothing in this chapter shall be construed to (1) allow persons to engage in conduct that endangers others or causes a public nuisance, or (2) allow any activity relating to the cultivation, processing, or distribution of cannabis marijuana that is illegal under state or federal law.

9.61.030 Definitions

For purposes of this chapter, the following definitions shall apply:

A. "Collective or cooperative cultivation" means the association within California of qualified patients, persons with valid identification cards, and designated primary caregivers to cultivate marijuana for medical purposes as defined in strict accordance with California Health and Safety Code sections 11362.5 et seq.

B. "Commercial cannabis marijuana activity" includes the cultivation, manufacturing, processing, packaging, distribution, and sale of cannabis marijuana and cannabis marijuana products.

C. "Cultivate" or "cultivation" is the planting, growing, harvesting, drying, processing, or storage of one or more cannabis marijuana plants or any part thereof in any location.

D. "Medical cannabis marijuana" is defined in strict accordance with California Health and Safety Code sections 11362.5 et seq.

E. "Processing" is defined as any method used to prepare cannabis marijuana or its byproducts for commercial sale, including but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create cannabis marijuana related products and concentrates.

F. "Primary caregiver" is defined in strict accordance with California Health and Safety Code section 11362.5 et seq.

9.61.040 Prohibited activities.

A. Indoor and outdoor cultivation of cannabis marijuana is prohibited in all areas of the City, except as outlined below in Section 9.61.040(A)(1).

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1. Cannabis Marijuana for personal use may be cultivated in conformance with the following standards:

(a) An individual may cultivate cannabis marijuana indoors on the parcel where the individual resides. Outdoor cultivation is prohibited.

(b) A primary caregiver may cultivate medical cannabis marijuana indoors for a qualified patient for whom he/she is the primary caregiver. Outdoor cultivation is prohibited.

(c) Cannabis Marijuana cultivation is permitted only on parcels with residential units. Cannabis Marijuana cultivation is permitted only within a residential unit, a garage, or a self-contained outside accessory building that is secured, locked, and fully enclosed.

(d) The cannabis marijuana cultivation area shall not exceed a total of six plants per residence or property (for example, a property owner/resident may not grow six plants indoors and grow additional plants in a separate self-contained building on the property).

(e) The use of gas products (CO₂, butane, etc.) for cannabis marijuana cultivation or processing is prohibited.

(f) Cannabis Marijuana cultivation for sale is prohibited. Notwithstanding this prohibition, a primary caregiver may recover from his or her qualified patient the actual costs incurred by the primary caregiver in cultivating the medical cannabis marijuana he or she delivers to the qualified patient.

(g) From the public right-of-way, there shall be no exterior evidence of cannabis marijuana cultivation.

(h) The residence shall maintain kitchens, bathrooms, and primary bedrooms for their intended use and these rooms shall not be used for cannabis marijuana cultivation.

(i) Any cannabis marijuana cultivation area located within a residence shall not create a humidity, mold or other nuisance condition.

(j) The cannabis marijuana cultivation area shall not adversely affect the health or safety of the nearby residents by creating dust, glare, excessive light, heat, noise, noxious gasses, odor, smoke, traffic, vibration, or other impacts, and shall not be hazardous due to use or storage of materials, processes, products or wastes.

~~2. Personal possession, use, and cultivation of recreational marijuana in accordance with the AUMA is permissible.~~

2. Testing facilities which are fully enclosed in a laboratory setting may operate if consistent with local zoning regulations and do not involve any other prohibited activities, including but not limited to, cultivation, processing, packaging, or sales. Temporary storage within a permitted testing facility is allowed.

B. It is unlawful for any person conducting, operating, owning, or in control of any business or premises to sell cannabis or cannabis products, whether medical (medicinal) or adult use (recreational) within the City of Capitola unless such person holds both:

1. A valid Retail Cannabis License, as outlined in 5.36.030, and

2. A conditional use permit for a retail cannabis establishment, in compliance with 17.24.020.D.1.b.

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B.C. Except as expressly authorized herein, all commercial ~~cannabis marijuana~~ activity is prohibited in all areas of the City.

9.61.050 Prohibited activities declared a public nuisance.

Any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall be and is hereby declared a public nuisance and may be abated by the City or subject to any available legal remedies, including but not limited to civil injunctions.

9.61.060 Penalties for violation.

A. Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and subject to a ~~penalty as established by law or in the City's bail schedule, maximum penalty of six (6) months imprisonment in county jail, or a fine of one thousand dollars (\$1,000).~~ Violators shall be subject to any other enforcement remedies available to the City under any applicable state or federal statute or pursuant to any other lawful power the City may possess.

B. Each day a violation is allowed to continue and every violation of the chapter shall constitute a separate violation and shall be subject to all remedies.

C. In the event any civil suit or action is brought by the City to enforce the provisions of this chapter, the prevailing party shall be entitled to recover the amount of its reasonable costs incurred in the action or proceeding, including, but not limited to, attorney's fees.

9.61.070 Severability.

If any part or subsection of this chapter is for any reason held to be invalid, unlawful, or unconstitutional, such invalidity, unlawfulness, or unconstitutionality shall not affect the validity, lawfulness, or constitutionality of any other part of this chapter.

Section 2. Effective Dates. This ordinance shall be in full force and effect thirty (30) days from the date of its adoption by the City Council.

This ordinance was introduced on the 11th day of April, 2019, and was passed and adopted by the City Council of the City of Capitola on the ____ day of ____, 2019, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 11, 2019

FROM: Community Development

SUBJECT: Introduce Revised Zoning Code for Coastal Commission Certification

RECOMMENDED ACTION: Accept staff presentation, provide direction on revised code, and direct staff to initiate public review.

BACKGROUND: The City Council adopted the General Plan update in 2014. Following adoption of the General Plan, staff began the process of updating the City's zoning code. The last comprehensive update to the zoning code was completed in 1975, although remnant sections date back to 1951. The zoning code has been amended numerous times since the 1975 update to address various community concerns, changed circumstances, and new legal requirements.

The current update to the zoning code has been underway since 2014. In fall of 2014, the City began a series of stakeholder outreach meetings, an online survey, and public meetings to help prepare the draft code.

The first draft of the comprehensive update to the zoning code was released in 2016. The Planning Commission discussed the first draft of the code during 11 public hearings in 2016, and the City Council at six public hearings. All input provided by the Planning Commission and City Council was incorporated into a second draft of the zoning code that was published on January 9, 2017. The Planning Commission reviewed the second draft at three meetings in the spring of 2017, followed by two City Council meetings. On May 11, 2017, the City Council directed staff to publish an updated version incorporating all Planning Commission and City Council direction for a 60-day public review period.

The zoning code and zoning map were circulated for a 60-day public review period in 2017. On September 6, 2017, the Planning Commission reviewed the public comments and unanimously recommended approval of the draft zoning. The City Council reviewed the draft at two meetings in November 2017. In January 2018, the City Council approved the revised zoning code.

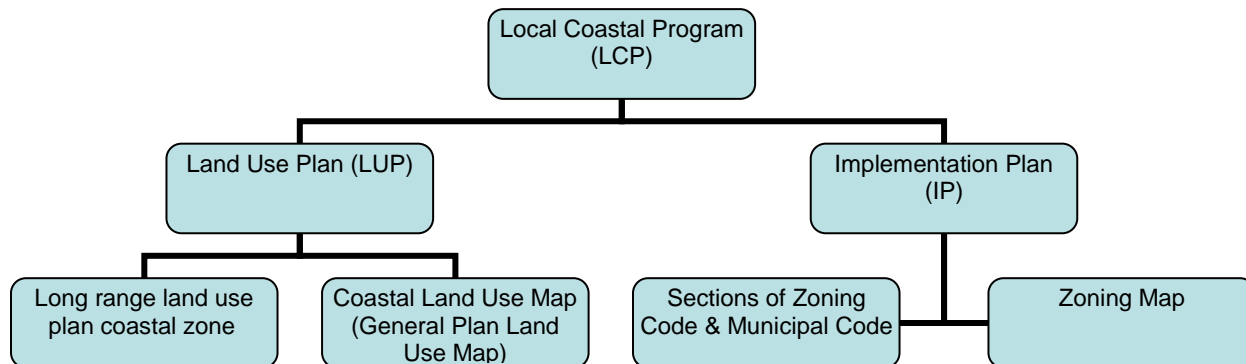
Since the adoption of the zoning code, staff has been working with Coastal Commission staff toward certification. The code must be certified by the Coastal Commission to take effect in the coastal zone. Through the spring and summer of 2018, City staff and Coastal Commission staff met on a regular basis. On November 11, 2018, Coastal Commission staff provided City staff with a redlined version of the zoning code with its recommended modifications.

During a special meeting on February 21, 2019, and a regularly scheduled meeting on March 7,

Revised Zoning Code for Coastal Commission Certification
 April 11, 2019

2019, the Planning Commission reviewed the Coastal Commission redlines and provided staff with directions to accept or deny the revisions. The modifications are summarized in a table included as Attachment 1. Staff has updated the draft code to reflect all the Coastal Commission revisions recommended by Planning Commission (Attachment 2). Due to the size of the document, a printed copy is available at the City Hall for public review and a digital copy is available online at CityofCapitola.org.

DISCUSSION: In accordance with the California Coastal Act of 1976, Capitola has a certified Local Coastal Program (LCP). The LCP applies to areas within Capitola’s coastal zone as depicted on Capitola’s zoning map and includes approximately two-thirds of the City. The LCP consists of the Land Use Plan (LUP) and the Implementation Plan (IP). The LUP is a comprehensive long-range plan for land use and physical development within the City’s coastal zone. The LUP consists of policies for land use in the coastal zone consistent with the Coastal Act (Attachment 3). The LUP also includes a certified coastal land use map. Capitola’s General Plan land use map serves as the LUP coastal land use map. The IP includes the zoning code, the zoning map, and other sections of the Municipal Code. The IP must be consistent with the LUP. The current version of the zoning code, with the Coastal Commission redlines, is consistent with Capitola’s Land Use Plan.



The Coastal Commission must certify the update to the zoning code and zoning map as an update to the LCP/IP prior to the new zoning code and zoning map taking effect within the coastal zone. Since the adoption of the zoning code on January 25, 2018, the City has applied the regulations of the old zoning code in areas inside the coastal zone and the new zoning code outside the coastal zone. Once the Coastal Commission certifies the IP, the new zoning map and zoning code will be in effect throughout the City.

During the April 11, 2019, City Council meeting, city staff will present the highlights of the Coastal Commission staff requested edits along with the Planning Commission recommendations, as outlined in the following table.

#	Topic	Code Section	Page #
1	New Brighton State Park Overlay	17.28.010	28-1
	CC staff requested New Brighton State Park be added as an overlay subzone in the Visitor Serving overlay zone. Planning Commission recommended to not accept the change because cities do not have regulatory standing over state parks.		
2	Monarch Cove Inn	Table 17.28-1 Footnote 12	28-4
	CC staff added footnote to Monarch Cove overlay requiring single-family use be allowed “in conjunction with Visitor Accommodation Use.” Planning Commission added		

Revised Zoning Code for Coastal Commission Certification
April 11, 2019

	"in conjunction with Visitor Accommodation Use or grant of public access to a public viewpoint". This would allow the owner to utilize the property as a residence with no Visitor Accommodations as long as the owner grants public access to a viewpoint in perpetuity.		
3	Environmentally Sensitive Habitat Area (ESHA)	Chapter 17.64	64-1 through 64-6
	CC staff and Planning Commission modified chapter to clarify when a biological study is necessary or may be waived, updated setbacks to reflect language in Local Coastal Plan, and clarify development regulations.		
4	Village Parking Program	17.76.040.3	76-8 & 9
	Planning Commission recommended the City Council review the parking standard for the Central Village, which requires parking for new uses or intensification of use at a site outside the village. The current in-lieu parking policy is for hotel use only. Staff will present options to either update or remove the standard during the council meeting.		
5	Future Village Hotel Height	17.88.050.B.2.a	88-3
	CC staff suggested adding the following underlined revisions "The maximum height of the hotel (<u>including all rooftop architectural elements such as chimneys, cupolas, etc., and all mechanical appurtenances such as elevator shafts, HVAC units, etc.</u>) remain <u>at least 10 feet</u> below the <u>top</u> elevation of the bluff behind the hotel; and" ... the Planning Commission did not accept the revisions. The code as drafted provides flexibility in design while guaranteeing that the new hotel would be below the bluff top.		

Additional Zoning Code Revisions

Since the adoption of the zoning code, staff has identified several necessary revisions to the zoning code. These edits are included in the updated draft and are typically minor in nature, such as correcting a reference to another section of code or carrying over a standard from the previous code. All edits are included in the updated draft within the redlines. There are three substantial updates to the code which will be presented to the City Council.

Chapter 74: Accessory Dwelling Units. The most substantial change that occurred during the latest revisions was the update to Chapter 74: Accessory Dwelling Units to bring the chapter into compliance with state regulations. The updated draft incorporates the following requirements from the state:

1. Allow a single-family home within the single-family zoning district to have an accessory dwelling unit and remove the required minimum lot size. The home must have adequate setbacks for fire safety.
2. Allow garages to convert to ADU. Parking for main structure must be provided on-site in any configuration on the same lot as the accessory dwelling unit.
3. Update parking exceptions to match state exceptions. Only detached ADUs in Capitola will require onsite parking.
4. Create new section for "Deviation from Standards" to allow Planning Commission review of an ADU that does not comply with development standards.

Density Limits in CC and RC zones (Table 17.24-3). The second substantial change is the removal of maximum residential density limits in the Community Commercial (CC) and Regional Commercial (CR) zoning districts based on the recent guidance for the General Plan update. Floor area ratio and development standards are the control limits for development in commercial and mixed-use zones. Maximum density limits of 20 units per acre have been removed.

Floor Area Exception for Garage on Small Lot (17.48.040.B.6). Lastly, a property owner

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approached the Planning Commission regarding a 250-square-foot floor area ratio (FAR) exception for garages on lots less than 3,000 square feet. The resident pointed out that the standard allows a bigger home on a 2,999-square-foot lot than a 3,100-square-foot lot. During the March 7, 2019, meeting, the Planning Commission directed staff to update the standard to 1) apply to lots that are not required to have covered parking (lots with 2,586 square-feet or less), and 2) add a prorated garage exception for lots between 2,586 to 3,018 square feet to remove the unfair FAR allowance. The Planning Commission also recommended adding an allowance of 125 square feet of ancillary space to garages that will not be included in parking calculation (17.76.030.D).

The updated draft has two additional modifications that were identified after the March 7, 2019, Planning Commission review. The two items were not carried over from the previous code, including 1) Vacation Rental Overlay Enforcement (17.40.030.F) and 2) definition of single room occupancy (SRO). The Planning Commission will review the two additional changes and make a recommendation to City Council during the May 2, 2019, meeting.

Pending Zoning Code Revisions

Chapter 17.68 (Geologic Hazards) has not been updated. When the chapter was submitted to the Coastal Commission, the Coastal Commission did not provide redlines and supported this chapter being submitted separately following certification of the rest of the code. Coastal Commission staff is currently working on Geological Hazard updates for Marin County and Santa Cruz County. Coastal Commission staff noted that the updates done within these two counties could help a future update for Capitola.

Chapter 17.92 (Non-conforming Parcels, Uses, and Structures) was reviewed by the Coastal Commission with major revisions. The Coastal Commission staff redlines included new standards and regulations for non-conforming structures that are very different than Capitola's adopted code and require substantial public outreach. Staff plans to begin work on the both chapters following certification of the LCP/IP by Coastal Commission. Coastal Commission staff and the Planning Commission have expressed support for submitting the two chapters after certification of the current chapters under review. To create ease for users, these existing chapters will be renumbered; Chapter 17.48 Geologic Hazards will be renumbered to be located in Chapter 17.68 and Chapter 17.72: Nonconforming Uses to Chapter 17.92.

Next Steps

The City Council may either continue the review of the draft update to the Zoning Code or direct staff to initiate a 45-day public review of the draft update.

CEQA: An Addendum to the General Plan Update Environmental Impact Report (EIR) was adopted with the Zoning Code update on January 25, 2018.

FISCAL IMPACT: There are no fiscal impacts.

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Reviewed and Forwarded by:



Jamie Goldstein, City Manager

4/5/2019