

# City of Capitola Agenda



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

**CAPITOLA CITY COUNCIL  
REGULAR MEETING  
THURSDAY, APRIL 12, 2012  
\*\*\*\*\*  
CLOSED SESSION – 5:30 PM  
CITY MANAGER'S OFFICE**

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

**CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

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

1. City of Capitola Insurance Coverage Claim Against Lexington Insurance (Noble Gulch Storm Drain Failure);
2. Pacific Cove Mobile Home Park Pipe Failure and Closure;
3. Larson vs. City of Capitola.

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

1. Kevin Calvert, D.D.S. and Pamela Calvert vs. City of Capitola, et al. [Superior Court of the State of California for County of Santa Cruz, Case #CV 172804];
2. Katie Saldana vs. City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV 172324];
3. Foremost Insurance Company vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV173228];
4. Truck Insurance vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV173071];
5. David Ross; Carousel Taffy Morro Bay, Inc.; Village Mouse dba The Thomas Kinkade Gallery Capitola; Judith Ferro vs. the City of Capitola, , et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV173642];

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

Negotiator: Jamie Goldstein, City Manager

Employee Organizations: Association of Capitola Employees, Capitola Police Captains, Capitola Police Officers Association, Confidential Employees, Mid-Management Group, and Department Head Group.

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

Claimant: John Kawahara

Agency claimed against: City of Capitola

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

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

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

**2. PRESENTATIONS**

A. Mayor’s Proclamation designating April 2012 as “National Poetry Month.”

B. Presentation by Karen Delaney, Executive Director of the Volunteer Center of Santa Cruz.

**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. COMMITTEE APPOINTMENTS**

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

**8. CONSENT CALENDAR**

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

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

- A. Consideration of denying a liability claim of John Kawahara, in the amounts of \$18,400 and \$15,000 and forward to the City’s liability insurance carrier.  
**RECOMMENDED ACTION:** Deny Liability Claim.

8. CONSENT CALENDAR (continued)

- B. Approve City Council Minutes of the Regular Meeting of February 23, 2012.  
RECOMMENDED ACTION: Approve Minutes.
- C. Consideration of an amendment to the Title 3 Section 20.050 of the Capitola Municipal Code pertaining to budget transfers and budget amendments [2nd Reading].  
RECOMMENDED ACTION: Adopt Ordinance.
- D. Consideration of a Zoning Code Amendment to Title 17 of the Capitola Municipal Code to modify the parking standards for single room occupancy, and amending the Industrial Zone regulations to allow an emergency shelter [2nd Reading].  
RECOMMENDED ACTION: Adopt Ordinance.
- E. Receive the California Public Employees Retirement System Annual Actuarial Valuation Reports as of June 30, 2010.  
RECOMMENDED ACTION: Receive report.
- F. Consideration of approving a Policy for Financial Management of Federal Grant Funds and Policy for Construction/Renovation Project Change Orders for Projects Funded by Federal Grants.  
RECOMMENDED ACTION: Approve Policies.
- G. Receive Planning Commission Action Minutes for the Regular Meeting of April 5, 2012.  
RECOMMENDED ACTION: Receive Minutes.
- H. Consideration of a Resolution acknowledging the Rispin (APN 035-371-01; 035-371-02) as an asset of the Successor Agency to the former Capitola Redevelopment Agency.  
RECOMMENDED ACTION: Adopt Resolution.

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. Discussion regarding amending the City of Capitola Municipal Code to allow dogs on Capitola Beach.  
RECOMMENDED ACTION: Discuss and provide direction.
- B. Consideration of approving a three year sole source contract with D.W. Alley & Associates for fish and wildlife monitoring of Soquel Creek, and authorize the City Manager to execute the agreement.  
RECOMMENDED ACTION: Approve contract.

## 9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

- C. Consideration of a Resolution approving the form and authorizing the execution of the Restated and Amended Use Agreement between the Santa Cruz Consolidated Emergency Communications Center Joint Powers Agreement and the City, and authorize the City Manager to execute the agreement.

RECOMMENDED ACTION: Adopt Resolution.

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

## 10. COUNCIL/STAFF COMMUNICATIONS

A. Staff CommentsB. City Council/Treasurer Comments/Committee Reports

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

## 11. ADJOURNMENT

Adjourn to the next Regular Meeting of the City Council to be held on Thursday, April 26, 2012, at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

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

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

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

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

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

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

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

# City of Capitola Mayor's Proclamation

Designating April 2012  
"National Poetry Month"

**WHEREAS**, the Academy of American Poets established the month of April as National Poetry Month in 1996; and

**WHEREAS**, National Poetry Month is the now the largest literary celebration in the world; and

**WHEREAS**, the legacy and ongoing achievement of American poets is extraordinary; and

**WHEREAS**, poetry is an essential part of the arts and humanities, and inspires artists in other fields such as music, theatre, film, dance, and the visual arts; and

**WHEREAS**, the Capitola City Council celebrates the beauty of language and the vistas of imagination poetry creates; acknowledges the importance of poetry in education; and appreciates that poetry can enhance our understanding of ourselves and our appreciation of others; and

**WHEREAS**, the City Council takes pride in Capitola's diverse, accomplished poets, as well as appreciating the panoply of readings, festivals and literature that vivify the City's cultural life;

**WHEREAS**, a commemoration like National Poetry Month encourages our recognition and enjoyment of poetry;

**THEREFORE**, I Michael Termini, Mayor of the City of Capitola, do hereby proclaim April 1 through April 30, 2012, as the 16th annual National Poetry Month. I call upon public officials, educators, librarians, and all of us in Capitola to observe this month through our ongoing enjoyment and support of poetry.

**IN WITNESS WHEREOF**, I have hereunto set my hand this 12<sup>th</sup> day of April, in the year 2012.

**NOW, THEREFORE**, I, Michael Termini, Mayor of the City of Capitola, do hereby proclaim the month of April as "National Poetry Month" for the City of Capitola

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Michael Termini, Mayor  
Signed and sealed this 12th day of April 2012



Item #: 8.A.

## CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 12, 2012

FROM: CITY MANAGER'S DEPARTMENT

SUBJECT: LIABILITY CLAIMS

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

**DISCUSSION:**

The following claimant has filed liability claims against the City of Capitola:

1. John Kawahara: \$18,400 and \$15,000

**ATTACHMENTS:** None

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

Reviewed and Forwarded  
by City Manager: \_\_\_\_\_



Item #: 8.B.

## CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 12, 2012

FROM: OFFICE OF THE CITY CLERK

SUBJECT: APPROVAL OF THE FEBRUARY 23, 2012 CAPITOLA CITY COUNCIL SPECIAL  
MEETING MINUTES

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**RECOMMENDED ACTION:** By motion that the City Council approve the subject minutes as submitted.

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

**ATTACHMENTS**

1. February 23, 2012 Minutes

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

**Reviewed and Forwarded  
By City Manager:** 

NOT OFFICIAL UNTIL APPROVED BY COUNCIL/RDA DIRECTORS

CITY OF CAPITOLA  
CITY COUNCIL

February 23, 2012  
Capitola, California

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

**CALL TO ORDER**

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

**CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to subdivision (b) of Govt. Code §54956.9:  
Three cases: 1) Noble Gulch Storm Drain Failure in Pacific Cove Mobile Home Park;  
2) Pacific Cove Mobile Home Park Flooding and Closure;  
3) Save the Plastic Bag Coalition.

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

1. Kevin Calvert, D.D.S. and Pamela Calvert vs. City of Capitola, et al. [Superior Court of the State of California for County of Santa Cruz, Case #CV 172804];
2. Katie Saldana vs. City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV 172324];
3. Foremost Insurance Company vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV173228];
4. Truck Insurance vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV173071].

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

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

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

Claimant: Janice Jimenez  
Agency claimed against: City of Capitola

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



7:00 P.M. – OPEN SESSION

## REGULAR MEETING OF THE CAPITOLA CITY COUNCIL

## CALL TO ORDER

**Mayor Termini** called the Regular Meeting of the Capitola City Council to order at 7:05 p.m. on Thursday, February 23, 2012, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

## 1. ROLL CALL AND PLEDGE OF ALLEGIANCE:

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

**ABSENT:** None

**OTHERS:** City Treasurer Jacques Bertrand, and Municipal Finance Consultant Bill Statler

**STAFF:** City Manager Jamie Goldstein, City Attorney John Barisone, Interim Community Development Director Susan Westman, Public Works Director Steve Jesberg, Finance Director Tori Hannah, and City Clerk Susan Sneddon

## 2. PRESENTATIONS: None provided.

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

**City Attorney Barisone** stated that City Council did not discuss the following existing litigation: (1) Kevin Calvert, D.D.S. and Pamela Calvert vs. the City of Capitola, et al.; (2) Katie Saldana vs. the City of Capitola, et al.; (3) Foremost Insurance Company vs. the City of Capitola, et al.; and (4) Truck Insurance vs. the City of Capitola, et al. **City Attorney Barisone** stated that the City Council did not discuss the anticipated litigation regarding the Noble Gulch Storm Drain Failure in Pacific Cove Mobile Home Park; City Council received a status report and discussed the Pacific Cove Mobile Home Park closure and relocation, and the Save the Plastic Bag Coalition; no reportable action was taken. **City Attorney Barisone** stated that City Council heard from **Administrative Services Director Murphy** and **City Manager Goldstein**, the City's labor negotiators, regarding the following employee bargaining organizations: (1) Association of Capitola Employees; (2) Capitola Police Captains; (3) Capitola Police Officers Association; (4) Confidential Employees; (5) Mid-Management Group; and (6) Department Head Group. **City Attorney Barisone** stated that the City Council did not discuss the liability claim of Janice Jimenez.

**4. ORAL COMMUNICATIONS****A. Additions and Deletions to Agenda**

**Council Member Norton** stated that Item 6.A. regarding funding the Community Grants will be moved to the March 8, 2012, City Council meeting and will include a full discussion of the grant funding program for Fiscal Year 2012/2013.

***ACTION: Motion by Council Member Norton, seconded by Council Member Nicol, to move Item 6.A. regarding funding the Community Grants to the March 8, 2012 City Council meeting. The motion carried with the following vote: AYES: Council Members Harlan, Norton, Nicol, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: Council Member Storey.***

**B. Public Comments**

The following people reported on the preliminary results of the Seniors Council of Santa Cruz and San Benito Counties older-adult needs assessment:

- **Jane Schwickerath, Seniors Council of Santa Cruz and San Benito Counties Board Member;**
- **Rita Winings, Area Agency on Aging Advisory Council Member;**
- **Sandra Williams, City's representative for Seniors Council of Santa Cruz and San Benito Counties, and the Santa Cruz County representative on the Advisory Council of the Area Agency on Aging;**
- **Darrel Johnson, Seniors Council of Santa Cruz and San Benito Counties Board Member.**

**Angela Flynn** stated the findings provided by Electric Power Research Institute regarding matters of health; she related these findings to magnetic fields created by SmartMeters. She urged the Council to enforce the SmartMeter moratorium.

**Marilyn Garrett** stated her reasoning for opposing the SmartMeters; she provided additional material to the City Council.

**Rhonda Hayes** expressed her disappointment in the City Council not continuing the SmartMeter moratorium.

**C. Staff Comments**

**City Manager Goldstein** reported from a recent Santa Cruz Regional 9-1-1 Board of Directors meeting. He stated that last year Capitola had a decrease of 1,200 emergency 911 calls (5.7% reduction).

## C. Staff Comments (continued)

**Council Member Storey, City's representative on the Santa Cruz Library Joint Powers Authority Board**, stated that the Library Board meetings will be at different locations within the County so they are more accessible to the community. In addition, the Preliminary Fiscal Year 2012/2013 Budget and libraries hours will be discussed at the March 5, 2012 Library Board meeting.

**Council Member Harlan** stated that she attended a recent Tobacco Education Coalition meeting; the Coalition desires to work with local jurisdictions to develop programs for performing tobacco sales sting operations. She reported that smoking among minors is on the rise.

D. City Council/Treasurer Comments/Committee Reports (None provided)E. Committee Appointments

1. Receive the Mayor's appointment of Derek VanAlstine to the Architectural and Site Review Committee. [740-15]

**Mayor Termini** appointed Derek VanAlstine to the Architectural and Site Review Committee to fill the Architect vacancy with term ending December 31, 2012.

F. Approval of Check Register Reports

1. Approval of City Check Register Reports dated February 3 and February 10, 2012. [300-10]

**ACTION: Motion by Council Member Norton, seconded by Council Member Storey, to approve the Check Register Reports dated February 3 and February 10, 2012. The motion carried on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None**

## 5. CONSENT CALENDAR

**Council Member Nicol requested that Item 5.E.** regarding the approval of a letter from the Mayor of Capitola to the California Public Utilities Commission opposing the SmartMeter opt out one-time and monthly fees be pulled from the Consent Calendar.

- A. Deny liability claim of Janice Jimenez for an undetermined amount and forward it to the City's liability insurance carrier. [Claims Binder]

## 5. CONSENT CALENDAR (continued)

**ACTION:** Motion by Council Member Storey, seconded by Council Member Nicol, to deny the liability claim of Janice Jimenez and forward it to the City's liability insurance carrier. The motion carried unanimously with the following vote: **AYES:** Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. **NOES:** None. **ABSENT:** None. **ABSTAIN:** None.

- B. Consideration of approval of the City Council/Redevelopment Agency Minutes of the Joint Regular Meeting of January 26, 2012.

**ACTION:** Motion by Council Member Storey, seconded by Council Member Nicol, to approve the minutes of the Regular Joint Meeting of the City Council/Redevelopment Agency of January 26, 2012. The motion carried unanimously on the following vote: **AYES:** Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. **NOES:** None. **ABSENT:** None. **ABSTAIN:** None.

- C. Receive City Treasurer's Report for Month ended January 31, 2012 (Unaudited). [380-30]

**ACTION:** Motion by Council Member Storey, seconded by Council Member Nicol, to receive the City Treasurer's Report for Month ended January 31, 2012 (Unaudited). The motion carried unanimously on the following vote: **AYES:** Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. **NOES:** None. **ABSENT:** None. **ABSTAIN:** None.

- D. Consideration of a Resolution accepting a Homeland Security Grant in the amount of \$9,910 and amending the Fiscal Year 2011/2012 General Fund Operating Budget by increasing both Revenues and Expenditures by \$9,910. [330-10]

**ACTION:** Motion by Council Member Storey, seconded by Council Member Nicol, to adopt Resolution No. 3911 accepting a Homeland Security Grant in the amount of \$9,910 and amending the Fiscal Year 2011/2012 General Fund Operating Budget by increasing both Revenues and Expenditures by \$9,910. The motion carried unanimously on the following vote: **AYES:** Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. **NOES:** None. **ABSENT:** None. **ABSTAIN:** None.

- E. Consideration of approving a letter from the Mayor to the California Public Utilities Commission opposing the SmartMeter opt out one-time and monthly fees. [565-30]

## 5. CONSENT CALENDAR (continued)

*This item was pulled from the Consent Calendar for separate discussion.*

**E. Consideration of approving a letter from the Mayor to the California Public Utilities Commission opposing the SmartMeter opt-out one-time and monthly fees. [565-30]**

**Council Member Nicol** stated his objection to a portion of the proposed draft letter from the Mayor to the California Public Utilities Commission (CPUC) opposing the SmartMeter opt-out fees where it states that “a free opt-out program should have been included in the SmartMeter program from the beginning, and customers should not have to pay now for the California Public Utilities Commission and PG&E’s failure to do so.” He believes that the statement is naïve because in the “real world” business customers are required to pay for these types of services.

**Mayor Termini** stated that if the CPUC had acted expeditiously the opt-out program would have been in place before they removed the analogue meters, and, therefore, residents would not be required to pay the \$75 to have the analogue meters re-installed.

**Council Member Nicol** responded that the \$75 charge is just one part of the opt-out program; the other part has to do with the cost of maintaining manual reading of the meters on a monthly basis. He requested that a section of the letter from the Mayor to the CPUC be re-worked to express the reality of the business world.

**Council Member Storey** stated that the proposed letter to CPUC reflects the end results of the Council’s consensus to not continue the moratorium but to make a strong statement opposing any opt-out fees based upon the exact reasons that were previously discussed. When the SmartMeters were to be installed, there was no credit given, even though PG&E was saving money on the meter readers. He stated that consumers should not have to pay for additional costs; the proposed letter is consistent with what the Council already decided.

**Angela Flynn** requested that the proposed letter be amended to include a rebate for those in the community who will not be using SmartMeters. She stated that she is being targeted, and her Internet connection is being tampered with. The PG&E fee is imposed as a punitive measure.

**Peter Latour, Santa Cruz Hostel**, stated his dissatisfaction with PG&E; there are other methods of reading meters.

**Marilyn Garrett** read an excerpt from a presentation by Alexander Binik at a recent CPUC meeting.

## 5. CONSENT CALENDAR (continued)

**ACTION: Motion by Council Member Norton, seconded by Council Member Storey, was made to approve a letter from the Mayor to the California Public Utilities Commission opposing the SmartMeter opt-out one-time and monthly fees. The motion carried on the following vote: AYES: Council Members Harlan, Norton, Storey, and Mayor Termini. NOES: Council Member Nicol. ABSENT: None. ABSTAIN: None.**

## 5. GENERAL GOVERNMENT/PUBLIC HEARINGS

## A. Discussion regarding funding the Community Grants. [330-30]

This item has been moved to the March 8, 2012 City Council meeting.

## B. Presentation regarding the Finance Advisory Committee's Long-Term City Revenue/Expenditure Projections Analysis (continued from the January 26, 2012 City Council Meeting). [330-40]

**Bill Statler, Municipal Finance Consultant**, stated that this item is a follow-up from the October 12, 2011 City Council/Redevelopment Agency and Finance Advisory Committee Joint Study Session. He presented steps to close the City's long-term funding gap and options/alternatives to create fiscal sustainability using existing resources. He stated that while the City's budget is fiscally balanced, it may not be from a service perspective. He stated that achieving a balanced budget has required service and capital improvement project reductions that may not serve the community well in the longer term. He stated that the Finance Advisory Committee report identified both expenditure reductions as revenue increase options, recognizing that before asking Council members to raise fees and asking voters to support tax increases, the City first needs to demonstrate that services are currently being provided in a cost-effective manner. He reviewed three ways of demonstrating that City services are currently being provided in a cost-effective manner: (1) Comprehensive organizational analysis; (2) compensation study; and (3) benchmark analysis. He suggested the Council consider economic development, improved cost recovery through service charges, and new/increased taxes as cost reduction strategies.

**Council Member Nicol** asked when the Council can expect the results from Fairbank, Maslin, Maullin, Metz and Associates (FM3) public opinion poll. (**City Manager Goldstein** replied that the results will be made available at the March 22, 2012 Council meeting).

**Mayor Termini** asked if the City has the resources to conduct a benchmark study without additional expenditures.

## 5. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

**City Manager Goldstein** responded that one-third of the funding remains from the contract between Bill Statler and the City and it can be used to fund a benchmark study to be completed by Mr. Statler.

**Mayor Termini** opened this item for public comment.

**Christine Buechting, Finance Advisory Committee Chair**, summarized the report from the City's Finance Advisory Committee. She stated the importance of doing the public opinion polling and of closing the City's long-term funding gap. The majority of the Finance Advisory Committee is in favor of the City doing a benchmark analysis to assess the fiscal performance of the City.

**Mayor Termini** closed this item for public comment.

**Council discussion ensued regarding the selection of comparative cities for a benchmark study and the consideration of a sales tax measure.**

***ACTION: Motion was made by Council Member Norton, seconded by Council Member Harlan, to continue to closely evaluate cost saving opportunities, prepare a "benchmark study", develop user fee cost recovery policy subject to Council approval, analyze key revenues in accordance with the adopted user fee cost recovery policy, and make recommendations for changes as appropriate as part of the City's Fiscal Year 2012/2013 Budget process. The motion carried unanimously on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.***

**C. Presentation by City financial management. [330-40]**

**Bill Statler, Municipal Finance Consultant**, proposed improvements based on effective use of the City's limited resources and effective Council policy and decision making. He recommended that the following be implemented to assist in streamlining the City's financial reporting: (1) Discontinue placing the register of warrants (check registers) on the City Council's agenda for ratification and shift to quarterly reports; (2) apply recommended changes to budget amendments pertaining to budget transfers and budget amendments; (3) streamline the accounting for Cash Flow Interfund Borrowings; (4) place all key policies and procedures in the City's Purchasing Ordinance; (5) limit the use of Resolutions to only those circumstances where they are truly needed.

## 5. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

**Council Member Norton** stated that he prefers keeping the check register as part of the City Council Agenda packet because it is a good way to review how the City is managing funds.

**Mayor Termini** stated that the City Council continues receiving the check register in the Council Agenda Packet; he suggested that a single line item be placed on the Council's agenda stating that it is included in the packet.

**Council Member Storey** recommended that the check register continue to be in the Council Agenda Packet to ensure transparency. He is in favor of considering raising the budgetary authority limits; however, there remain some clarification issues. He agrees with receiving better guidance regarding any purchasing conflicts in policies that the City may have. In addition, he would like to receive more information before supporting the staff's recommendation to limit the use of resolutions.

**City Manager Goldstein** stated that the use of resolutions for budget amendments and approval of contracts is not necessary; he suggested that a budget worksheet. In addition, resolutions for contract approvals are unnecessary, since the action is already spelled out in the contract. He suggested continuing to include the check register in the Council Agenda Packet as a transparency tool; however, it is not necessary to obtain Council's approval.

**Bill Statler, Municipal Finance Consultant**, stated that historically the check register needed to be approved by Council; however, in recent years it is considered as an accounting tool for internal control procedures and does not require Council approval.

**City Manager Goldstein** stated that the check register will remain in the Council Agenda Packet; however, staff will try something different to streamline the process and will continue to provide the transparency.

***ACTION: Motion was made by Council Member Nicol, seconded by Council Member Harlan, to approve the following recommended financial management improvements: (1) Direct staff to draft an ordinance amending the Capitola Municipal Code pertaining to budget transfers and budget amendments; (2) streamline the accounting for Cash Flow Interfund Borrowings; (3) direct staff to draft an ordinance amending the Capitola Municipal Code regarding the City's Purchasing Policy; (4) direct staff to streamline and improve the City's financial reporting, and (5) limit the use of resolutions to only those circumstances where they are truly needed. The motion carried on the following vote: AYES: Council Members Harlan, Norton, Nicol, and Mayor Termini. NOES: Council Member Storey. ABSENT: None. ABSTAIN: None.***



## 5. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

**Council Member Norton** requested that City Manager Goldstein return to Council to explain any public exposure issues with the proposed financial management changes.

**D. Discussion regarding an Ordinance to reduce single-use plastic and paper carryout bags. [930-30]**

**Administrative Director Murphy** provided a brief update of this item; in March 2010 the City Council supported a regional effort to implement an ordinance that would reduce the use of single-use plastic and paper carryout bags; last September, after the County of Santa Cruz adopted an ordinance to reduce the use of single-use plastic and paper carryout bags, the City Council conceptually supported a similar ordinance. She stated that shortly after the County adopted the ordinance, "Save the Plastic Bag Coalition" filed a lawsuit against the County seeking to invalidate the ordinance. She stated that the County successfully negotiated a settlement with the plaintiffs under which the County agreed to amend the ordinance to exempt restaurants, in exchange for plaintiff's agreement to dismiss its litigation and conduct an environmental impact report. She stated that staff will continue its public outreach campaign informing residents and businesses of the proposed ordinance.

**Mayor Termini** opened this item for public comment.

**Marilyn Garrett** stated that help is needed to stop the manufacture of the toxic plastic products.

**Richard Amy** supports the Council tabling this item until the lawsuit against the County of Santa Cruz is resolved.

**Mayor Termini** closed this item for public comment.

**Council Member Norton** suggested holding off in adopting a City ordinance until the City of Santa Cruz adopts a plastic bag ordinance.

**Council Member Nicol** suggested that the City not take any action on this item at this time to avoid spending money on legal fees and wait until the statewide legal struggle over banning plastic bags is resolved.

**Council Member Storey** stated that if the City proceeded on a negative declaration, the City would most likely be involved in a costly lawsuit. He suggested that the City work with local businesses to develop a campaign to eliminate plastic bags. He expressed his concern with requiring consumers to pay for reusable paper bags.

## 5. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

*Motion was made by Council Member Norton, seconded by Mayor Termini, to direct staff to coincide with the City of Santa Cruz in the development of a plastic bag ordinance, and to seek direction from the City Council to take action in its adoption. The motion failed on the following vote: AYES: Council Member Norton and Mayor Termini. NOES: Council Members Harlan, Nicol, and Storey. ABSENT: None. ABSTAIN: None.*

*ACTION: Motion was made by Council Member Nicol, seconded by Council Member Storey, to continue this item to a future date when the City reaches an agreement that is both fiscally and environmentally responsible, and to direct staff to work with the local businesses to eliminate plastic bags wherever possible. The motion carried on the following vote: AYES: Council Members Harlan, Nicol, Storey and Mayor Termini. NOES: Council Member Norton. ABSENT: None. ABSTAIN: None.*

Mayor Termini called for a five minute break.

- E. 809/815/819 Bay Avenue - Project Application #10-038: Presentation regarding the temporary relocation of the recycling facilities for Nob Hill Center and consideration of an Amendment to a Master Use Permit to permanently locate the facilities at the proposed site in the Community Commercial (CC) Zoning District; APN: 035-021-43. Property Owner: Bay Creek Properties. [730-10]

Senior Planner Bane provided a brief history of this item; he stated that in November 2010 the City Council approved the temporary relocation of the recycling facility to a location adjacent to the CVS building for a six-month period, subject to conditions of approval and directed staff to continue to take noise readings at the site. In March 2011 the recycling facility was moved near the CVS building; staff took noise readings between March 2011 and October 2011. He noted that no noise complaints were received. He stated that the City's Zoning Code provides considerations for approving conditional use permits, specifically addressing small collection facilities in a commercial-industrial zone. He stated that staff is recommending that the City Council approve this application, subject to the conditions and findings, including a new condition requiring the installation of additional sound-deadening material in the transfer container.

Mayor Termini opened this item for public comment.

No public comment.

Mayor Termini closed this item for public comment.

## 5. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

**ACTION:** Motion was made by Council Member Nicol, seconded by Council Member Harlan, to approve amendment to the Master Use Permit (Application #10-038), subject to the Findings and Conditions (Attachment 4 of the agenda report), including a new condition requiring the installation of additional sound deadening material in the transfer container (Condition #2). The motion carried unanimously on the following vote: **AYES:** Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. **NOES:** None. **ABSENT:** None. **ABSTAIN:** None.

- F. 835 Bay Avenue - Project Application #12-001: Request for a Conditional Use Permit to install a model manufactured home in conjunction with an existing manufactured home sales business (Ideal Homes) in the Community Commercial (CC) Zoning District. Environmental Determination: Categorical Exemption Property Owner: Redtree Properties; Representative: Richard Emigh (APN: 035-011-03, 035-381-01). [730-10]

**Senior Planner Bane** introduced this item. He stated that this request is for the approval of a 1,500 square-foot display of a modular home on the vacant property commonly known as the Grimes property. He stated that the Planning Commission recommended that the proposed use does not conform to the CC Zoning District standards and does not represent an appropriate gateway to the City.

**Council Member Norton** inquired if the proposal for the installation of a display of a manufactured home is only for temporary use. (**Senior Planner Bane** responded that the City only issues permanent Conditional Use Permits).

**Richard Amy, 809/815/819 Bay Avenue**, stated that after the Planning Commission's hearing was closed, one of the Commissioners stated that the proposal was illegal because it is an outdoor display of merchandise. He stated that the City's CC Zoning District allows for an outside display of merchandise for auto sales on 41<sup>st</sup> Avenue, and this proposal is similar. He understands that the City Council must follow the Planning Commission's recommendation, and the City Council sends the discussion back to the Planning Commission so the property owner is allowed to present arguments.

**John Barss, Ideal Home Manufactured Housing Agent**, asked if the proposal would be an illegal use pursuant to the City's CC Zoning requirement.

## 5. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

**Mayor Termini** stated that there is no specific reference in the City's CC Zoning District that allows for a model home.

**Council Member Storey** stated his concern regarding whether the Council can approve this proposal as a permitted use; he quoted from the City's Municipal Code CC Zoning District (Section 17.27.060(R)) which states that a Conditional Use Permit can be granted for: "Other uses similar to the above, not inconsistent with the general purposes of this chapter and the general plan, subject to approval by the city council upon the recommendation of the planning commission". He stated that this proposal is a conditional use under "other uses" upon recommendation of the Planning Commission; Council needs an analysis about how they get beyond the specific language in the City's Municipal Code.

**Senior Planner Bane** stated that his interpretation is that it needs to first be reviewed by the Planning Commission, and then the Planning Commission makes a recommendation to the City Council; the Council can take the Planning Commission recommendation or not.

**City Attorney Barisone** stated that the Planning Commission can make recommendations to the City Council; the City Council is the final decision-making body on any land-use issue.

**Council Member Nicol** asked if the City's Zoning Code speaks to the temporary display of merchandise. He stated that it appears that the Planning Commission's only objection to this proposal, besides legality, was visual blight.

**Senior Planner Bane** responded that the City's Zoning Code does speak to requiring a conditional use permit for outdoor displays; it does not refer to a temporary use. He stated some use permits allow outdoor displays in certain areas which are carried with the property.

**City Manager Goldstein** suggested focusing on the placement of a manufactured home for display in the CC District; Council could choose to approve the proposal or alternatively accept the Planning Commission's recommendation.

**Mayor Termini** opened this item for public comment.

No public comment.

**Mayor Termini** closed this item for public comment.

## 5. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

**Council Member Storey** stated that he recognizes the Planning Commission's concern in that the proposed location is at the gateway to the City.

***Motion was made by Council Member Storey, seconded by Council Member Harlan, to send this item back to the Planning Commission for reconsideration, and to give the applicant an opportunity to provide an improved visual presentation of the proposal. The motion failed.***

**Senior Planner Bane** stated that he does not think the Planning Commission will change its decision on this proposal.

**Richard Amy (property owner) and John Barss (Ideal Home Manufactured Housing Agent)** agreed to a one-year use of the property to display the manufactured home.

**Council Member Norton** recommended that the modular home be set 150 feet off the road to provide a good separation; the Architectural and Site Review Committee recommended a 100-foot setback. He suggested that Mr. Amy submit a landscape plan for the front of the modular home.

***ACTION: Substitute motion was made by Council Member Norton, seconded by Council Member Nicol, to approve the application with a 150-foot setback, the applicant be granted a one-year conditional use permit with the option of returning to Council for continued use, and a landscaping plan to be submitted subject to staff's approval. The motion carried on the following vote: AYES: Council Members Norton, Nicol, and Mayor Termini. NOES: Council Member Harlan and Council Member Storey. ABSENT: None. ABSTAIN: None.***

**Council Member Norton** said he would abstain from **Item 5.G.** because he is the representative for the project, and voting on this item would result in a conflict of interest. He removed himself from the dias.

**G. 101 Grand Avenue – Project Application #11-120: Request for a 50-AR/R-1 (Automatic Review/Single-Family Residence) Zoning District. Environmental Determination: Categorical Exemption Property Owner: Papken S. Der-Torossian (APN: 036-114-12); Representative: Dennis Norton. [730-10]**

**Senior Planner Bane** stated that this item is regarding the Crest Apartments (19-unit apartment building) which is currently a legal non-conforming multi-family use in a single-family R-1 zoning. He stated that the City's Zoning Code (Section 17.72.060(C)) regulates nonconforming activities and

## 5. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

structures on improved R-1 parcels; an amortization period has been set up where nonconforming activities in the R-1 Zones must be discontinued on June 26, 2019, or 50 years from the date the activity first became nonconforming, whichever is later.

**Mayor Termini** stated that this particular section of the City's Code applies to a nonconforming structure that falls in disrepair and remains nonconforming.

**City Attorney Barisone** stated that the purpose of this section of the City's Code implies that the property needs to ultimately conform to the zone district regulations; this is an attempt to amortize the property so that an owner cannot say they were deprived of the investment expectation. He stated the purpose of this section of the City's Code is to assure that by June 26, 2019 everything in the zone district conforms to the regulations, but Council has the ability to authorize an extension.

**Interim Community Services Director Westman** stated that there was a lot of controversy when the City's 1979 General Plan was adopted, particularly about that some of the duplex units that are located on 44<sup>th</sup> Street and 46<sup>th</sup> Street. She stated some units were in extreme disrepair at the time, so as part of the adoption of the General Plan, they wanted the City to come up with a policy that would allow the units to either go away or be repaired.

**Mayor Termini** opened this item for public comment.

No public comment.

**Mayor Termini** closed this item for public comment.

***ACTION: Motion was made by Council Member Nicol, seconded by Mayor Termini, to grant an extension approving an 80-year extension of the amortization period to allow the Crest Apartments to continue as a nonconforming use in the R-1 Zoning District. The motion carried on the following vote: AYES: Council Members Harlan, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: Council Member Norton.***

**Council Member Norton** returned to the dias.

## 7. COUNCIL/STAFF COMMUNICATIONS

**Council Member Norton** stated his concern regarding the number of medical and dental offices on 41<sup>st</sup> Avenue particularly in the CC zone. He suggested that a moratorium be put in place to not allow additional medical offices in this area.

**8. ADJOURNMENT**

**Mayor Termini** adjourned at 10:35 p.m. to the next Regular Meeting of the City Council to be held on Thursday, March 8, 2012, at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Item #: 8.C.

## CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 12, 2012

FROM: OFFICE OF THE CITY CLERK

SUBJECT: ORDINANCE AMENDING TITLE 3 SECTION 20.050 OF THE CAPITOLA MUNICIPAL CODE PERTAINING TO BUDGET TRANSFERS AND BUDGET AMENDMENTS [2<sup>ND</sup> READING]

**RECOMMENDED ACTION:** By motion adopt the proposed Ordinance approving the following pertaining to budget transfers and budget amendments.

**BACKGROUND:** At its meeting of March 22, 2012, the Capitola City Council considered an amendment to Title 3 Section 20.050(D) of the Capitola Municipal Code pertaining to budget transfers and budget amendments.

**DISCUSSION:** The City Council held a Public Hearing on the proposed Ordinance at a Regular Meeting of the City Council held on Thursday, March 22, 2012. After receiving public comments and deliberating on this matter, the City Council took the following action:

**ACTION:** Council Member Nicol moved, seconded by Council Member Storey, to adopt the first reading of the proposed Ordinance amending Title 3 Section 20.050(D) of the Capitola Municipal Code pertaining to budget transfers and budget amendments, as submitted, and passed the Ordinance to a second reading at the next Capitola City Council Regular Meeting to be held on April 12, 2012. The motion carried on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

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; on May 12, 2012.

### ATTACHMENT

1. Draft Ordinance

Report Prepared By: Susan Sneddon, CMC  
City Clerk

Reviewed and Forwarded  
by City Manager

A handwritten signature in black ink, appearing to be "JG", is written over the text "by City Manager".



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA  
AMENDING SECTION 3.20.050 (D) TO THE CAPITOLA MUNICIPAL CODE  
PERTAINING TO BUDGET TRANSFERS AND BUDGET AMENDMENTS**

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

Section 1: Section 3.20.050 (D) is hereby amended to the Capitola Municipal Code to read as follows:

“3.20.050 Budget Transfers and Budget Amendments.

D. Any supplemental appropriations of fund balance, or budget transfers of twenty-five thousand dollars (\$25,000) or more will require Council approval.

Section 2. This ordinance shall take effect and be in full force thirty (30) days after its final adoption.

This ordinance was introduced on the 22<sup>nd</sup> day of March, 2012, and was passed and adopted by the City Council of the City of Capitola on the 12<sup>th</sup> day of April, 2012, by the following vote:

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

APPROVED:

\_\_\_\_\_  
Michael Termini, Mayor

ATTEST:

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



Item #: 8.D.

## CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 12, 2012

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: ORDINANCE AMENDING TITLE 17 OF THE CAPITOLA MUNICIPAL CODE TO MODIFY THE PARKING STANDARDS FOR SINGLE ROOM OCCUPANCY, AND AMENDING THE INDUSTRIAL ZONE REGULATIONS TO ALLOW AN EMERGENCY SHELTER [2ND READING]

---

**RECOMMENDED ACTION:** By motion adopt the proposed Ordinance approving the following pertaining to modify the parking standards for single room occupancy, and amending the industrial zone regulations to allow an emergency shelter.

**BACKGROUND:** The draft Ordinance amending Section 17.51.030 and adding Section 17.36.040 is presented here for a second reading. Section 17.51.030 amends the parking requirements for small residential single room occupancy units and Section 17.36.040 allows for emergency shelters in the Industrial Zoning District as a permitted use.

**DISCUSSION:** The City Council held a Public Hearing on the proposed Ordinance at a Regular Meeting of the City Council held on Thursday, March 22, 2012. After receiving public comments and deliberating on this matter, the City Council took the following action:

**ACTION:** Council Member Nicol moved, seconded by Council Member Norton to adopt the first reading of the proposed Ordinance to modify the parking standards for single room occupancy, and amending the industrial zone regulations to allow an emergency shelter, as submitted, and passed the Ordinance to a second reading at the next Capitola City Council Regular Meeting to be held on April 12, 2012. The motion carried on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

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; on May 12, 2012.

**FISCAL IMPACT:** None

### ATTACHMENTS

1. Draft Ordinance pertaining to parking requirement for single room occupancy units.
2. Draft Ordinance pertaining to emergency shelters.

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

**Reviewed and Forwarded  
By City Manager:** 

# ATTACHMENT 1

## DRAFT

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA  
AMENDING SECTION 17.51.130 OF THE CAPITOLA MUNICIPAL CODE  
TO ADD SUBSECTION 6 PERTAINING TO PARKING REQUIREMENT FOR SINGLE ROOM  
OCCUPANCY UNITS 400 SQUARE FEET OR LESS IN SIZE**

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

Section 1. Subsection 6 is hereby added to the Capitola Municipal Code Section 17.51.130 to read as follows:

6. For single room occupancy units with kitchen facilities (studio apartments) which are 400 square feet or less, the parking requirement shall be one space per unit and one guest space for each six units.

Section 2. This ordinance shall take effect and be in full force thirty (30) days after its final adoption.

This ordinance was introduced on the 22nd day of March, 2012, and was passed and adopted by the City Council of the City of Capitola on the 12<sup>th</sup> day of April 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

\_\_\_\_\_  
Michael Termini, Mayor

ATTEST:

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

## ATTACHMENT 2

### DRAFT

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA  
AMENDING SECTION 17.36.040 OF THE CAPITOLA MUNICIPAL CODE  
TO ADD SUBSECTION H. PERTAINING TO EMERGENCY SHELTERS**

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

Section 1. Subsection H. is hereby added to the Capitola Municipal Code Section 17.36.040 to read as follows:

“H. One Emergency Shelter with a maximum of 13 beds. Emergency shelters will comply with the following development standards:

1. Lighting: Adequate external lighting shall be provided for security purposes. The lighting shall be stationary, directed away from adjacent properties and public rights-of-way, and of an intensity compatible with the neighborhood.
2. Physical Characteristics: Compliance with applicable state and local housing, building, and fire code requirements.
3. Security: Facility shall have on-site security during hours of operation. Parking and outdoor facilities shall be designed to provide security for residents, visitors and employees.
4. Laundry Facilities: The development shall provide laundry facilities or services adequate for the number of residents.
5. Common Facilities: Facility shall contain amenities appropriate to the population to be served to include the following:
  - a) Central cooking and dining room
  - b) Recreation room
  - c) Counseling services
  - d) Child care facilities
  - e) Other support services
6. Outdoor Activity: For the purpose of noise abatement, organized outdoor activities may only be conducted between the hours of eight a.m. and ten p.m.
7. Refuse: Emergency shelters shall provide a refuse storage area that is in accordance with City requirements for accessory refuse structures. The storage area shall accommodate a standard-sized trash bin adequate for use on the parcel, or other enclosures as approved by the Planning Director. The refuse enclosure shall be accessible to refuse collection vehicles.

- 8. Emergency Shelter Provider: The agency or organization operating the shelter shall comply with the following requirements:
  - a) Temporary shelter shall be available to residents for no more than six months.
  - b) Staff and services shall be provided to assist residents to obtain permanent shelter and income.
  - c) The provider shall have a written management plan including, as applicable, provisions for staff training, good neighbor policies, security, transportation, client supervision, food services, screening of residents to insure compatibility with services provided at the facility, and for training, counseling, and treatment programs for residents. Such plan shall be submitted to and approved by the planning, inspections, and permitting department prior to operation of the emergency shelter. The plan shall include a floor plan that demonstrated compliance with the physical standards. The operator of each emergency shelter shall annually submit the management plan to the planning, inspections and permitting department with updated information for review and approval. The city council may establish a fee by resolution, to cover the administrative cost of review of the required management plan.
  
- 9. Limited Terms of Stay: The maximum term of staying at an emergency shelter is six months in a consecutive 12-month period.
  
- 10. Transportation Plan: A transportation plan is required.
  
- 11. Parking: The emergency shelter shall provide on-site parking at a rate of one space per staff member plus one space per six occupants allowed at the maximum capacity.
  
- 12. Bicycle Parking: The shelter shall provide secure bicycle parking at a rate of one space per occupant.”
  
- 13. Development Standards: A Emergency shelter must comply with all development standards in the Industrial Park zone district.

Section 2. This ordinance shall take effect and be in full force thirty (30) days after its final adoption.

This ordinance was introduced on the 22<sup>nd</sup> day of March, 2012, and was passed and adopted by the City Council of the City of Capitola on the 12<sup>th</sup> day of April, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

\_\_\_\_\_  
Michael Termini, Mayor

ATTEST:

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



## CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 12, 2012

FROM: FINANCE DEPARTMENT

SUBJECT: CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM ANNUAL  
ACTUARIAL VALUATION REPORTS AS OF JUNE 30, 2010

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**RECOMMENDED ACTION:** By motion, receive the California Public Employees Retirement System Annual Actuarial Valuation Reports as of June 30, 2010.

**BACKGROUND:**

On an annual basis, the City receives actuarial reports from the California Public Employee's Retirement System (CalPERS or PERS) that confirm the current year employer contribution rates, establish rates for the next fiscal year, and estimate rates for the third year out.

**DISCUSSION:**

The PERS contribution rates fluctuate for many reasons, including investment gains and losses and unexpected changes to payroll. Additionally, CalPERS recently adopted updated actuarial assumptions, resulting in an increase in rates for most employers.

The City's contribution, which is capped pursuant to existing MOU'S, remains unchanged at 28.291% for Safety and 16.488% for Miscellaneous. However, the FY12/13 employee contribution rates will increase to 8.449% for Safety employees and 8.267% for Miscellaneous employees. This represents an increase of approximately .65% points for Safety employees and .76% points for Miscellaneous employees. This cost increase comes directly out of our employee's paycheck, decreasing their take-home pay.

Employee Contribution	Safety	Misc
FY05/06	0.0%	0.0%
FY06/07	0.0%	0.0%
FY07/08	1.623%	0.152%
Dec 30. - July 2008	1.623%	3.594%
FY08/09	1.849%	3.576%
FY09/10	1.688%	3.663%
FY10/11	2.332%	4.128%
FY11/12	7.801%	7.511%
FY12/13	8.449%	8.267%

<b>Safety</b>	<b>2012-13 PERS Rates</b>	<b>Cap Revised</b>	<b>Employee Contribution</b>
Employer	24.706%	16.955%	
Employee	9.000%	9.000%	
EPMC (a)	2.224%	1.526%	
EPMC (b)	0.810%	0.810%	
<b>Total</b>	<b>36.740%</b>	<b>28.291%</b>	<b>8.449%</b>

<b>Miscellaneous</b>	<b>2012-13 PERS Rates</b>	<b>Cap Revised</b>	<b>Employee Contribution</b>
Employer	14.921%	8.409%	
Employee	8.000%	7.000%	
EPMC (a)	1.194%	0.589%	
EPMC (b)	0.640%	0.490%	
<b>Total</b>	<b>24.755%</b>	<b>16.488%</b>	<b>8.267%</b>

PERS projects contribution rates will increase in FY13/14 and FY14/15. Due to a recent PERS Board decision to lower the discount rate assumption, the rates are estimated to increase approximately 1-2 percent for miscellaneous plans and 2-3 percent for safety plans. The actual FY13/14 employer contribution rates will be provided in next year's Annual Valuation Reports.

### **FISCAL IMPACT**

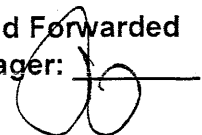
None.

**ATTACHMENTS:** (The following attachments are available at City Hall)

1. CalPERS Safety Plan of the City of Capitola Actuarial Valuation Report as of June 30, 2010;
2. CalPERS Miscellaneous Plan of the City of Capitola Actuarial Valuation Report as of June 30, 2010.

**Report Prepared By: Finance Department**

**Reviewed and Forwarded  
By City Manager:**





# CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 12, 2012

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: APPROVAL OF ADMINISTRATIVE POLICY FOR FINANCIAL MANAGEMENT OF FEDERAL GRANT FUNDS AND ADMINISTRATIVE POLICY FOR CONSTRUCTION/RENOVATION PROJECT CHANGE ORDERS FOR PROJECTS FUNDED BY FEDERAL GRANTS

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**RECOMMENDED ACTION:** Approve the following Administrative Policies for projects that receive Federal Grant Funds: 1) Financial Management of Federal Grant Funds; and 2) Federally Funded Housing Construction/Renovation Change Order Approval.

**BACKGROUND:** The City of Capitola received a federally funded HOME Grant as part of the reconstruction of the affordable housing project on Bay Avenue. On February 17 & 18, 2012 a Close-Out Monitoring of the HOME Grant was completed. As part of the Close-Out Monitoring, the City received "findings" from HOME, which need to be corrected. One finding was that the City does not have standard policies or procedures for the administration of federally funded programs. Also the City does not have an adopted policy or procedure for the review and approval of change orders in federally funded projects.

**DISCUSSION:** The City is in the process of closing out the HOME Grant received as part of the funding package for the affordable housing project on Bay Avenue. In order to close out this grant there are corrective actions which must be taken by the City. Two of those are the adoption of a policy for managing federal grant funds, and a policy for how change orders are handled. These only apply to federally funded projects.

**FISCAL IMPACT:** None

## ATTACHMENTS

1. Administrative Policy: Financial Management of Federal Funds Policy
2. Administrative Policy: Federally Funded Housing Construction/Renovation Project Change Order Approval Policy and Procedure

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

Reviewed and Forwarded  
By City Manager: \_\_\_\_\_





## ADMINISTRATIVE POLICY

Number:  
Issued:  
Jurisdiction: City Council

### City of Capitola Financial Management of Federal Funds Policy

#### I. **PURPOSE:**

The purpose of this policy is to set forth a procedure by which the City will obtain and administer federal grants.

#### II. **PROCEDURE**

When the City of Capitola seeks to obtain federal grants, the following procedures are to be followed:

The City Manager or City Council must approve the application and acceptance of grants received by the City of Capitola. Depending upon the individual grant program, either a Resolution or City Manager's approval shall be obtained before submitting a grant application.

The City of Capitola Grants Administrator or other designated staff member shall prepare and submit the grant application. If the application is approved, a project manager shall be designated by the City Manager or other Management staff. Together, the Grants Administrator and Project Manager shall serve as the primary managers of the grant.

Copies of approved grant documents (Including proposal, budget and award letter will be kept by both the Grant Administrator and the Finance Department. Copies of the grant contract shall be kept by the City Clerk.

Upon receipt of award notification, the Grant Administrator or other designated staff member will submit any required documentation to the granting agency. The Finance Department shall assign a unique project number to each individual grant, which will be used in tracking all revenues and expenditures associated with the grant. The Grant Administrator shall track, along with the Finance Department, expenditures made compared to the grant budget. Any deviation from the grant budget shall be discussed with the Project Manager and the granting agency.

During the grant period staff involved with the fulfillment of the grant will make purchases in accordance with the granting agency and the City of Capitola's procurement and purchasing policies.

The Grant Administrator will be responsible for completing all reports, reimbursement requests and advance payment request.

The Grant Administrator will monitor for compliance with grant guidelines. The Grant Administrator will ensure that property obligated funds are expended in a timely fashion and that all funds are expended within the eligible grant period.

Documents including the grant contract, reimbursement requests and back up documents and other required documents will be help in the grant file. All documents will be maintained for audit, per the grant requirements and State Law.

These policies will be reviewed and revised as necessary.

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Jamie Goldstein  
City Manager



## ADMINISTRATIVE POLICY

Number:

Issued:

Jurisdiction: City Council

**FEDERALLY FUNDED  
HOUSING CONSTRUCTION/RENOVATION  
PROJECT CONTRACT CHANGE ORDER APPROVAL  
POLICY AND PROCEDURE**

**I. PURPOSE**

The purpose of this policy is to provide policy for the approval of Contract Change Orders for Housing Construction/Renovation Projects that receive Federal Funds.

**II. POLICY**

Contract Change Orders for housing facilities under construction that are fully or partially funded by federal funds and require a contract change order to change the scope work in any way which in turn requires an adjustment of the contract amount or length of contract will be considered in the following cases:

1. Work requested by the City.
2. By design/work omissions in the original contract.
3. Correction of errors in the plans and specifications
4. Changes in conditions from those depicted in the contract document.
5. Unavoidable events or weather resulting in delays.

Change orders shall be approved by the City Manager or designee in writing in advance of the proposed work being performed by the contractor. The City Manager or designee is authorized to approve change orders within the total project's general construction and contingency budget as approved by the City Council and other funding sources. Proposed change orders that exceed the available funding will require City Council approval prior to the work being performed. At the time of the contract award, the City and any funding sources shall approve a contract change order budget which will be reflected in the approved contingencies of the project.

**III. PROCEDURE**

1. Contract change orders shall be administered in accordance with the procedures outlined in the bidding and contract documents.
2. Contract change orders shall be prepared on a form approved by the City.
3. The contractor, architect, or developer is responsible for the preparation of the contract change order.
4. The completed contract change order forms with all required supporting documentation shall be submitted to the City for review, consideration, and approval.
5. The construction budget and contingency funding shall be adjusted following approval of the contract change order.

6. For proposed contract change orders that exceed the construction and contingency funding and require approval of federal funding sources:
  - a. The City Manager must write a letter of support for the contract change order.
  - b. This letter, along with the contract change order documents, will be submitted to the federal funding source for consideration.
  - c. If approved, the request may also require amendments to the project budget. If required, the City Manager will submit the approved contract change order and project budget amendment to the appropriate funding agencies for consideration and approval.

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Jamie Goldstein  
City Manager

JG/lgm



# CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 12, 2012

FROM: COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: PLANNING COMMISSION ACTION MINUTES OF APRIL 5, 2012

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

Commissioners: Ed Newman, Gayle Ortiz, Mick Routh, Linda Smith and  
Chairperson Ron Graves  
Staff: Senior Planner Ryan Bane  
Minute Clerk Danielle Uharriet

**2. ORAL COMMUNICATIONS**

- A. Additions and Deletions to Agenda - NONE
- B. Public Comments - NONE
- C. Commission Comments - NONE
- D. Staff Comments - NONE

**3. APPROVAL OF MINUTES**

- A. March 1, 2012 Regular Planning Commission Meeting

Commissioner Smith clarified: "Page 1, Item 2.C, third sentence: "There will be a grand opening on Saturday, March 10<sup>th</sup> at 12 noon to celebrate the new exhibit, ~~It's About Time~~ Where Sky and Land Meet Sea and Sand, at the Capitola Museum.

Page 10, motion for Item 5.A: "A motion was made by Commissioner Newman and seconded by Commissioner Routh to continue project application #11-100 one final time to the April 5, 2012 Planning Commission meeting.

**APPROVED WITH CHANGES 4-0, COMMISSIONER ORTIZ ABSTAINED.**

**4. CONSENT CALENDAR**

- A. **153 MAGELLAN STREET** **#12-029** **APN: 036-192-17**

Coastal Permit and Design Permit to construct a second story addition to an existing one-story single-family residence in the R-1 (Single-Family Residence) Zoning District. This project requires a Coastal Permit which is not appealable to the California Coastal Commission.

Environmental Determination: Categorical Exemption

Property Owner: John & Annelies Walbridge, filed 3/5/12

Representative: Peter Guiley

**APPROVED 5-0**

**5. PUBLIC HEARINGS**

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

Reconsideration of a Conditional Use Permit for a take-out restaurant with the sale and dispensing of alcohol in the CV (Central Village) Zoning District.  
Environmental Determination: Categorical Exemption  
Property Owner: Peter Dwares, owner/filed: 9/15/11  
Representative: Dennis Norton Designs

**DENIED 3-2, COMMISSIONER ORTIZ AND COMMISSIONER SMITH DISSENTING.**

**B. 100 CENTRAL AVENUE #11-136 APN: 036-131-10**

Coastal Permit and Design Permit to demolish a single-family residence and construct a new two-story single-family residence in the R-1 (Single-Family Residence) Zoning District. This project requires a Coastal Permit which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.  
Environmental Determination: Initial Study and Mitigated Negative Declaration  
Property Owner: Jill Caskey & Bruce Yoxsimer, filed 12/15/11  
Representative: Derek Van Alstine

**APPROVED 5-0**

**C. 1855 41<sup>st</sup> AVENUE #12-031 APN: 034-261-37, 38**

Conditional Use Permit to establish a weekly farmer's market at the Capitola Mall in the CC (Community Commercial) Zoning District.  
Environmental Determination: Categorical Exemption  
Property Owner: Macerich, owner/filed: 3/9/12

Draft Additional conditions:

1. The project approval consists of a Conditional Use Permit (CUP) to establish a weekly farmer's market in the Capitola Mall parking lot. The market will be allowed to operate once a week during the months of February through November. The Conditional Use Permit is valid for a trial period of one (1) year from the date of approval.
5. Temporary signs will be permitted only during the market hours. Freestanding A-frame signs are not permitted along 41<sup>st</sup> Avenue. Banner signs shall be restricted to the vendor tents only.
7. The hours of operation are:  
8:00 a.m. – 9:00 a.m. set-up  
9:00 a.m. – 1:00 p.m. market  
1:00 p.m. – 2:00 p.m. take-down
8. The number of vendors shall not exceed 50, including non-profit organizations.
9. The number of displaced parking spaces shall not exceed 75 spaces. The handicapped parking spaces shall remain fully accessible throughout the market hours of operation.

**APPROVED 5-0, WITH CHANGES.**

**D. 1855 41<sup>st</sup> AVENUE**

**#12-032**

**APN: 034-261-37, 38**

Sign Permit to construct several "wayfinding" monument signs at the Capitola Mall in the CC (Community Commercial) Zoning District.

Environmental Determination: Categorical Exemption

Property Owner: Macerich, owner/filed: 3/9/12

Representative: RSM Design

**APPROVED 4-1, COMMISSIONER NEWMAN DISSENTING.**

**E. Sign Ordinance**

**12-017**

Consideration of an amendment to the City of Capitola Sign Ordinance Section 17.57 to allow for freestanding sidewalk signs on the public sidewalks in the Central Village Zoning District.

Environmental Determination: Categorical Exemption

Property Owner: City of Capitola, filed 2/10/12

**CONTINUED TO MAY 3, 2012 MEETING 5-0**

**6. DIRECTOR'S REPORT**

**7. COMMISSION COMMUNICATIONS**

**8. ADJOURNMENT**

Adjourned to a Special Meeting of the Planning Commission to be held on Thursday, April 19, 2012 at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Item #: 8.H.

## CITY OF CAPITOLA CITY COUNCIL AGENDA REPORT

### MEETING OF APRIL 12, 2012

FROM: CITY MANAGER AND FINANCE DEPARTMENTS

SUBJECT: CONSIDERATION OF A RESOLUTION ACKNOWLEDGING AND AUTHORIZING THE RISPIN PROPERTY (APN 035-371-01; 035-371-02) AS AN ASSET OF THE SUCCESSOR AGENCY TO THE FORMER CAPITOLA REDEVELOPMENT AGENCY

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**RECOMMENDED ACTION:** By motion approve a resolution to acknowledge and authorize the Rispin Property (APN 035-371-01; 035-371-02) as an asset of the Successor Agency of the Former Capitola Redevelopment Agency.

**BACKGROUND:** In March of 2011, the Capitola Redevelopment Agency Board of Directors approved a Resolution conveying the Rispin Mansion property to the City of Capitola. These types of conveyances were routinely being done across California as cities anticipated the possibility that Redevelopment Agencies would be ending. Assembly Bill X1 26, which ended Redevelopment Agencies, clearly states that transfers of real property after January 2011 were void from the outset and shall have no force or effect.

On March 22, 2012, the Capitola Successor Agency (CSA) approved a motion to acknowledge the Rispin Property (APN 035-371-01; 035-371-02) as an asset of the Successor Agency of the Former Capitola Redevelopment Agency. As part of the certification process for the CSA's Recognized Obligation Payment Schedule (ROPS), the County Auditor-Controller is requesting that the City Council now also acknowledge and authorize the Rispin property as an asset of the Successor Agency of the Former Capitola Redevelopment Agency.

The attached resolution authorizes the same action the Capitola Successor Agency took late last month on behalf of the City.

**FISCAL IMPACT:** Will be determined by the actions of the Oversight Board.

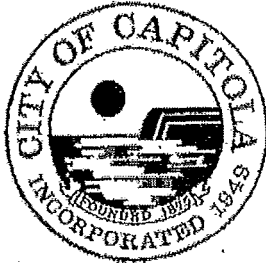
#### **ATTACHMENTS**

1. Staff Report dated March 8, 2011
2. Staff Report dated March 22, 2012
3. Resolution

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

**Reviewed and Forwarded  
By City Manager/Executive Director**





## CITY COUNCIL/REDEVELOPMENT AGENCY AGENDA REPORT

SPECIAL MEETING OF MARCH 8, 2011

FROM: CITY MANAGER/EXECUTIVE DIRECTOR'S OFFICE

DATE: MARCH 8, 2010

SUBJECT: CONSIDERATION OF AUTHORIZATION TO THE CITY MANAGER/EXECUTIVE DIRECTOR TO TRANSFER THE OWNERSHIP OF THE RISPIN MANSION SITE (ASSESSOR PARCEL NUMBERS 035-371-01 AND 035-371-02) FROM THE REDEVELOPMENT AGENCY TO THE CITY

**Recommended Action:** By motion and roll call vote, that the City Council and Redevelopment Agency Directors take the following actions:

1. That the Redevelopment Agency Board of Directors approve a Resolution authorizing the execution of A Property Conveyance Agreement with the City Of Capitola for the conveyance of certain real property (Rispin Mansion site: (Assessor Parcel Number 035-371-01 and 035-371-02) located in the Redevelopment Project Area.
2. That the City Council approve a Resolution authorizing the execution of A Property Conveyance Agreement with the City Of Capitola for the conveyance and acceptance of certain real property (Rispin Mansion site: (Assessor Parcel Number 035-371-01 and 035-371-02) located in the Redevelopment Project Area.

### BACKGROUND

The Governor of California put forth a budget proposal that includes elimination of redevelopment as of July 1, 2011. The California Legislative Analyst's Office recommended to the State Legislature that urgency legislation be adopted to prohibit redevelopment agencies from entering into new contractual agreements or issuing bonded debt subsequent to the Governor's announcement.

The proposed legislation, if enacted, may result in the transfer of all Redevelopment Agency assets, including real property, from the Agency to a successor agency. The successor agency, as proposed in the legislation, would be governed by an oversight board comprised of seven members, of which the City would appoint one member. The remaining members would be appointed by the County, school district, and county superintendent of education.

**DISCUSSION**

The Redevelopment Agency currently holds title to two pieces of property associated with the Rispin Mansion site. A third piece of property to the north, primarily comprised of undeveloped land, is held by the City. The property ownership and condition is summarized below:

APN	Current Owner	Improvements	Notes
035-371-01	RDA	Rispin Mansion / Rispin Peery Trail	Includes area encumbered by public access easement and location of historic Rispin Gardens
035-371-02	RDA	Driveway entrance to Rispin, well house, portion of fountain	Entire property is encumbered by a conservation easement
035-011-07	City	Undeveloped	

Staff recommends that the City accept the Rispin Property as a means of preserving authority over financing and future uses as it is a critical public property located in the city of Capitola.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT**

No specific development is contemplated under the proposed title transfer and no change to the physical environment. As a result, the project is exempt from the California Environmental Quality Act pursuant to Section 15061(b)(3) Pursuant to Section 15004(b)(2)(A) of the Guidelines for the implementation of the California Environmental Quality Act ("CEQA"), the Agreement is exempt from the requirements of CEQA because the future use of the Development Parcels for the Proposed Developments and the Parcels for the Public Improvements is conditioned upon CEQA compliance as more particularly set forth in the Agreement, and the City Council retains full discretion in approving, denying, or conditioning any land use entitlement, or any other planning approval, necessary for the development of the Public Improvements by the City or its designated successor public agency; and


Pursuant to Section 15061(b)(3) of the CEQA Guidelines, the Agreement is exempt from the requirements of CEQA because it can be seen with certainty that there is no possibility that adoption of this Agreement may have a significant effect on the environment, in that the use of the Property will not change or otherwise be modified following the conveyance by the Agency to the City pursuant to the Agreement without the prior completion of any further environmental review required by CEQA, nor does adoption of this Agreement commit the City to any particular use of the Property.

**FISCAL IMPACT** - Unknown.

**ATTACHMENTS**

- Attachment 1: RDA Conveyance Resolution
- Attachment 2: City Acceptance of Conveyance Resolution
- Attachment 3: City Rispin Resolution Certificate of Acceptance
- Attachment 4: RDA-City Rispin Property Conveyance Agreement

Report Prepared By: Jamie Goldstein  
City Manager/Executive Director

Reviewed and Forwarded by City  
Manager/Executive Director: 





**CITY OF CAPITOLA  
AS SUCCESSOR AGENCY TO THE  
FORMER CAPITOLA REDEVELOPMENT  
AGENCY AGENDA REPORT**

**MEETING OF MARCH 22, 2012**

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

SUBJECT: ACKNOWLEDGE THE RISPIN PROPERTY (APN 035-371-01; 035-371-02) AS AN ASSET OF THE SUCCESSOR AGENCY TO THE FORMER CAPITOLA REDEVELOPMENT AGENCY

**RECOMMENDED ACTION:** Motion to acknowledge the Rispin Property (APN 035-371-01; 035-371-02) as an asset of the Successor Agency of the Former Capitola Redevelopment Agency.

**BACKGROUND:** In March of 2011, the Capitola Redevelopment Agency Board of Directors approved a Resolution authorizing the execution of a Property Conveyance Agreement for the conveyance of the Rispin Mansion property to the City of Capitola. These types of conveyances were routinely being done across California as cities anticipated the possibility that Redevelopment Agencies would be ending. Assembly Bill X1 26 (ABX1 26) ended Redevelopment Agencies clearly states that transfers of real property after January 2011 were void from the outset and shall have no force or effect. The State Controller's Office is going to be reviewing and evaluating those transfers later in the year. Rather than wait for the State Controller's Office to "claw back" this property it is our desire to be proactive and acknowledge now that this transfer was not valid under ABX1 26.

**DISCUSSION:** The Rispin Mansion property and the City of Capitola have a long history. The City originally spent money acquiring the property in the early 1980's when a senior living development was being proposed for the property. The Redevelopment Agency had amended its project area to add about 2 acres to the original project area in 1999. In 2003, the City sold the property to the Redevelopment Agency. Following the property being sold to the Redevelopment Agency, the Agency worked with a developer on a hotel project. This project did not move forward. More recently work has been done to secure the original building on the property and plans are in place for a passive park. The property itself has had a number of development restrictions as a result of a law suit when the hotel development was being considered and restrictions because of environmental concerns. These easements remain on the property no matter who ultimately is the owner.

In the spring of 2011 many cities in California were concerned that Redevelopment Agencies might be eliminated or be allowed to operate on a more limited basis. In order to protect what had been Redevelopment Agency assets, assets were transferred to the City where the

Redevelopment Agency was located. The consensus of attorneys reviewing AB X126 is that property owned by the Redevelopment Agency could not be transferred after January 2011. Now the property cannot be transferred back to the Redevelopment Agency because it no longer is in existence. It has been replaced by the Successor Agency for the Former Capitola Redevelopment Agency. The Successor Agency for the Former Capitola Redevelopment Agency is not a separate organization. Again it is clear under ABX1 26 that the Successor Agency is the City which created the Redevelopment Agency. As a result of this the City would not be recording a new deed but acknowledging that this property is controlled by the Successor Agency and what happens to this property and the outstanding loan on the property will be determined for the Oversight Board.

This process is difficult because the legislation, as mentioned before, is complicated and unclear in many areas. It does seem appropriate for this to take place now rather than wait for the State Controller's Office to take action.

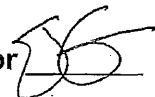
**FISCAL IMPACT:** Will be determined by the actions of the Oversight Board.

**ATTACHMENTS**

1. Staff Report dated March 8, 2011

**Report Prepared By:** Susan Westman  
Interim Community Development Director/  
Deputy Executive Director

**Reviewed and Forwarded  
By City Manager/Executive Director**



**DRAFT**

**RESOLUTION NO. \_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA  
ACKNOWLEDGING AND AUTHORIZING THE RISPIN PROPERTY  
(APN 035-371-01; 035-371-02) AS AN ASSET OF THE SUCCESSOR AGENCY TO THE  
FORMER CAPITOLA REDEVELOPMENT AGENCY**

WHEREAS, in March of 2011, the Capitola Redevelopment Agency Board of Directors approved a Resolution authorizing the execution of a Property Conveyance Agreement for the conveyance of the Rispin Mansion property to the City of Capitola

WHEREAS, the consensus of attorneys reviewing AB X126 is that property owned by the Redevelopment Agency could not be transferred after January 2011

WHEREAS, the property could not be transferred back to the Redevelopment Agency because it no longer is in existence; and has been replaced by the Successor Agency for the Former Capitola Redevelopment Agency

WHEREAS, to be consistent with AB X126, the City would like to be proactive and acknowledge and authorize that the Rispin Property is an asset of the Successor Agency to the Former Capitola Redevelopment Agency.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Capitola that the Rispin Property (apn 035-371-01; 035-371-02) is an asset of the successor agency to the former Capitola Redevelopment Agency and that its transfer or disposal should be directed by the Oversight Board.

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 22rd day of April, 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Michael Termini, Mayor

ATTEST:

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



## CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 12, 2012

FROM: DEPARTMENT OF PUBLIC WORKS

SUBJECT: PUBLIC HEARING ON AMENDING CITY CODES TO ALLOW DOGS ON  
CAPITOLA BEACH

---

**RECOMMENDED ACTION:** Conduct public hearing and provide direction to staff.

**BACKGROUND:** For many years the City has searched for ways to provide facilities where dog owners can exercise their dogs. In early 2002 the City Council amended the municipal code to allow leashed dogs in designated City parks. The City Council has also from time to time considered allowing dogs on all or portions of the beach.

**DISCUSSION:** Chapter 6.14.200 prohibits dogs on all public beaches, whether on a leash or not. Section 6.14.320 requires dogs to be on leash when on legal public spaces such as streets and sidewalks.

Copies of these code sections are included as Attachment 1. Depending on the direction of the Council, one or both of these code sections may need amending.

In addition to amending the City's own laws, removing the prohibition of dogs on the beach would be considered a change in use of an existing facility and would require coastal development permits including environmental review. The complexity of the permitting and ultimate Coastal Commission approval will depend greatly on the details of the changes to the City's ordinances. Key issues that will need to be addressed is whether or not the Municipal Code is amended to allow dogs on the beach, on or off-leash, and if there are limitation to the hours dogs would be allowed on the beach.

The Police Department has provided that following background information on current issues pertaining to dogs on the beach.

- During the winter they average 3-5 contacts per day of complaints about dogs on the beach being off-leash or defecating.
- During the summer higher use of the beach by visitors and Jr. Guards compound the issues, raising the number of contact to 15 per day.
- Very few citations are issued as the Department has focused on education rather than enforcement.

If the Council chooses to consider amending the codes to allow dogs on the beach, options to consider may include seasonal access, limitations to hours of access, or different access regulations for the Main Beach versus Hooper's Beach.

**FISCAL IMPACT:** The cost of implementing and enforcing any program will vary greatly depending on the issues outlined above. Staff would return to Council with a work plan and schedule with specific financial details for your approval on any project that is identified.

**ATTACHMENTS:**

1. Capitola Municipal Code Sections 6.14.200 and 6.14.320

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

Reviewed and Forwarded  
By City Manager:

A handwritten signature in black ink, appearing to be 'JB', is written over a horizontal line.

**6.14.200 Dogs in public places—Permitted and prohibited locations.**

A. Except as provided in Section 6.14.210, it is unlawful for any person owning, having an interest in, harboring or having charge of the care, custody, control or possession of any dog to cause or permit such dog to be in any of the following locations, whether with or without a leash:

1. On any public beach within the city of Capitola;
2. Capitola Wharf;
3. Any other public location in the city that is posted with signage prohibiting dogs.

B. Dogs shall be permitted on leash in the following parks unless the city council, by resolution, declares the prohibitions of subsection A of this section applicable to such areas: Monterey Avenue Park, Noble Gulch Park, Perry Park, Soquel Creek Park, Jade Street Park (except for lawn and tennis court areas), and Esplanade Park (except for lawn areas). (Ord. 912 § 2 (part), 2006)

**6.14.320 Leashing required.**

Unless a dog is under restraint by leash or chain no longer than six feet in length or confined within an automobile, no person owning, having an interest in, harboring, or having charge, care, control, custody or possession of that dog shall cause or permit such dog to be in or upon: any public street, alley or other public place; in or upon any unenclosed lot or premises; or in or upon any other private property posted with signs prohibiting off-leash dogs. (Ord. 915 § 1, 2007: Ord. 912 § 2 (part), 2006)





Item #: 9.B.

## CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 12, 2012

FROM: DEPARTMENT OF PUBLIC WORKS

SUBJECT: APPROVAL OF A THREE YEAR SOLE SOURCE CONTRACT WITH D.W. ALLEY  
& ASSOCIATES FOR FISH AND WILDLIFE MONITORING OF SOQUEL CREEK

---

**RECOMMENDED ACTION:** By motion and vote, approve a sole source contract with D.W. Alley and Associates for a period of three years in the amount not to exceed \$29,900 for 2012, \$30,200 for 2013, and \$30,650 for 2014 for monitoring of Soquel Creek as mandated under the City's permits from California State Fish and Game and other agencies for annual lagoon closure and beach grading.

**BACKGROUND:** The stream alteration permits issued to the City for beach grading and lagoon closure including operation of the flume, requires the City to conduct year round fish monitoring of Soquel Creek. This monitoring consists of water temperature readings, fish counts, salinity testing, and related observations. Don Alley, of D.W. Alley and Associates, author of the Soquel Creek Lagoon Management Plan, has completed this monitoring and reporting since 1990 and is considered a leading expert on the aquatic habitats of the creek.

**DISCUSSION:** Staff recommends the re-establishing a contract with Don Alley for the monitoring work.

**FISCAL IMPACT:** Annual costs are funded in the Public Works Streets Contracts fund.

**ATTACHMENTS**

1. Proposals from Don Alley for 2012, 2013, and 2014

Report Prepared By: Steven Jesberg  
Public Works Director

Reviewed and Forwarded  
By City Manager: 

## DRAFT Soquel Lagoon Monitoring Scope and Budget, 2012

February 26, 2012

Task No.	Task	Personnel	Hours	Rate/hr	Miles (\$0.63/mile)	Total Cost
1	Sandbar construction and fish relocation.	Alley	40*	\$103.50	175	\$4,250.25
2	Mid-week salinity and water quality check	Alley	3	\$103.50	35	\$332.55
3	Writing of Army Corps Report on sandbar construction	Alley	10	\$103.50		\$1,035.00
4	Monitoring of water quality (14 @ 2-week intervals)	Alley	49**	\$103.50	490	\$5,380.20
5	Afternoon Water Quality Monitoring (14 @ 2-week intervals)	Alley	49**	\$103.50	490	\$5,380.20
6	Water Quality Monitoring Pre- and Post Begonia Festival and monitoring of clean-up	Alley	12	\$103.50	70	\$1,286.10
7	Launch and retrieve 7 water temperature probes	Alley	8	\$103.50	70	\$872.10
8	Annual steelhead and tidewater goby censusing.	Alley and 2 Assistants	16***	\$204.25	210	\$3,400.30
9	Sandbar breaching	Alley	4	\$103.50	35	\$436.05
10	Data analysis and writing lagoon report	Alley	65	\$103.50		\$6,727.50
11	Report Production and delivery	Alley	3	\$103.50	100	\$373.50
	<b>Total Hours/ Miles</b>		<b>259+16</b>		<b>1,675</b>	<b>\$29,473.75</b>
	Report reproduction cost (5 bound and 1 electronic)					\$180.00
	Purchase of 1 temperature probe and case					\$190.00
	Equipment batteries					\$35.00
	<b>Total Budget</b>					<b>\$29,878.75</b>

\* The time budgeted is based on experience. The budget may change, depending on the actual number of openings and closures are needed for sandbar construction. If the sandbar is destroyed by a late storm, the budget will increase.

\*\* Assumes that sandbar construction occurs prior to Memorial Day Weekend and sandbar opening occurs by the middle of November, with monitoring occurring every 2 weeks, totaling 14 periods.

\*\*\* Assumes that at least 4 volunteers and 2 paid assistants show up each weekend to help seine the fish.

**DRAFT Soquel Lagoon Monitoring Scope and Budget, 2013**

February 26, 2012

<b>Task No.</b>	<b>Task</b>	<b>Personnel</b>	<b>Hours</b>	<b>Rate/hr</b>	<b>Miles (\$0.65/mile)</b>	<b>Total Cost</b>
1	Sandbar construction and fish relocation.	Alley	40*	\$104.50	175	\$4,293.75
2	Mid-week salinity and water quality check	Alley	3	\$104.50	35	\$336.25
3	Writing of Army Corps Report on sandbar construction	Alley	10	\$104.50		\$1045.00
4	Monitoring of water quality (14 @ 2-week intervals)	Alley	49**	\$104.50	490	\$5,439.00
5	Afternoon Water Quality Monitoring (14 @ 2-week intervals)	Alley	49**	\$104.50	490	\$5,439.00
6	Water Quality Monitoring Pre- and Post Begonia Festival and monitoring of clean-up	Alley	12	\$104.50	70	\$1,299.50
7	Launch and retrieve 7 water temperature probes	Alley	8	\$104.50	70	\$881.50
8	Annual steelhead and tidewater goby censusing.	Alley and 2 Assistants	16***	\$206.29	210	\$3,437.14
9	Sandbar breaching	Alley	4	\$104.50	35	\$440.75
10	Data analysis and writing lagoon report	Alley	65	\$104.50		\$6,792.50
11	Report Production and delivery	Alley	3	\$104.50	100	\$378.50
	<b>Total Hours/ Miles</b>		<b>259+16</b>		<b>1,675</b>	<b>\$29,782.89</b>
	Report reproduction cost (5 bound and 1 electronic)					\$190.00
	Purchase of 1 temperature probe and case					\$190.00
	Equipment batteries					\$38.00
	<b>Total Budget</b>					<b>\$30,200.89</b>

\* The time budgeted is based on experience. The budget may change, depending on the actual number of openings and closures are needed for sandbar construction. If the sandbar is destroyed by a late storm, the budget will increase.

\*\* Assumes that sandbar construction occurs prior to Memorial Day Weekend and sandbar opening occurs by the middle of November, with monitoring occurring every 2 weeks, totaling 14 periods.

\*\*\* Assumes that at least 4 volunteers and 2 paid assistants show up each weekend to help seine the fish.

**DRAFT Soquel Lagoon Monitoring Scope and Budget, 2014**  
February 26, 2012

<b>Task No.</b>	<b>Task</b>	<b>Personnel</b>	<b>Hours</b>	<b>Rate/hr</b>	<b>Miles (\$0.67/mile)</b>	<b>Total Cost</b>
1	Sandbar construction and fish relocation.	Alley	40*	\$105.50	175	\$4,337.25
2	Mid-week salinity and water quality check	Alley	3	\$105.50	35	\$339.95
3	Writing of Army Corps Report on sandbar construction	Alley	10	\$105.50		\$1,055.00
4	Monitoring of water quality (14 @ 2-week intervals)	Alley	49**	\$105.50	490	\$5,497.80
5	Afternoon Water Quality Monitoring (14 @ 2-week intervals)	Alley	49**	\$105.50	490	\$5,497.80
6	Water Quality Monitoring Pre- and Post Begonia Festival and monitoring of clean-up	Alley	12	\$105.50	70	\$1,312.90
7	Launch and retrieve 7 water temperature probes	Alley	8	\$105.50	70	\$890.90
8	Annual steelhead and tidewater goby censusing.	Alley and 2 Assistants	16***	\$208.35	210	\$3,474.30
9	Sandbar breaching	Alley	4	\$105.50	35	\$445.45
10	Data analysis and writing lagoon report	Alley	65	\$105.50		\$6,857.50
	Report reproduction cost (5 bound and 1 unbound) and delivery	Alley	3	\$105.50	100	\$383.50
	<b>Total Hours/ Miles</b>		<b>259+16</b>		<b>1,675</b>	<b>\$30,092.35</b>
	Report reproduction cost (5 bound and 1 electronic)					\$200.00
	Purchase of 1 temperature probe and case					\$200.00
	Equipment batteries					\$41.00
	<b>Total Budget</b>					<b>\$30,533.35</b>

\* The time budgeted is based on experience. The budget may change, depending on the actual number of openings and closures are needed for sandbar construction. If the sandbar is destroyed by a late storm, the budget will increase.

\*\* Assumes that sandbar construction occurs prior to Memorial Day Weekend and sandbar opening occurs by the middle of November, with monitoring occurring every 2 weeks, totaling 14 periods.

\*\*\* Assumes that at least 4 volunteers and 2 paid assistants show up each weekend to help seine the fish.



Item #: 9.C.

## CITY COUNCIL AGENDA REPORT

MEETING OF APRIL 12, 2012

FROM: CITY MANAGER AND FINANCE DEPARTMENTS

SUBJECT: CONSIDERATION OF A RESOLUTION APPROVING THE FORM AND AUTHORIZING THE EXECUTION OF THE RESTATED AND AMENDED USE AGREEMENT BETWEEN THE SANTA CRUZ CONSOLIDATED EMERGENCY COMMUNICATIONS CENTER JOINT POWERS AGREEMENT AND THE CITY, AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT

---

**RECOMMENDED ACTION:** By motion adopt a Resolution approving the form and authorizing the execution of the Restated and Amended Use Agreement between the Santa Cruz Consolidated Emergency Communications Center Joint Powers Agreement and the City, and authorize the City Manager to execute the agreement.

**BACKGROUND:** The City of Capitola is part of the Santa Cruz Consolidated Emergency Center Joint Powers Authority (JPA). As a member of the JPA, the City pays a portion of the operating costs of the Regional 9-1-1 facility, as well as the cost of financing the facilities and equipment necessary to operate the 9-1-1 system. The JPA has the opportunity to refinance the Authority's 2002 Lease Revenue Bonds at a lower interest rate and obtain funds for facility expansion and equipment.

The JPA is considering adopting a Resolution authorizing the issuance of Lease Revenue Bonds in an amount not to exceed \$4,500,000. The proceeds would be used to refinance the outstanding 2002 Lease Revenue Bonds which were used to finance the original 9-1-1 building costs; purchase additional equipment, and make a lease termination payment to the County to acquire space that is currently being used for the Emergency Operations Center (EOC).

The attached Resolution authorizes the City to enter into a Restated and Amended Use Agreement to secure the City's share of the debt service on the Bonds.

**DISCUSSION:** The JPA and the County Public Financing Authority issued bonds in 1994 to construct and equip the Regional 9-1-1 Center. In 2002, the Authority issued Lease Revenue Bonds to refinance the 1994 debt and acquire additional equipment. The current balance of debt service relates only to building costs; all equipment financing has been paid-off. After the June 15, 2012 debt service payment, there will be 12 years remaining on the 2002 Bonds.

The payments on the 2002 Bonds are approximately \$310,000 annually, and the average interest rate is 5.25%. The Regional 9-1-1 center has the opportunity, through the Authority, to refinance the 2002 Bonds at today's interest rates (effective 12 year rate of 4.08%). This would result in an estimated 6.5% present value saving and reduce the annual remaining lease payments by \$20,000 each year.

In addition to refinancing the bonds, the Regional 9-1-1 Center has an opportunity to buy out the County's interest in the remaining lease of the EOC space for \$1 million, which has a term that is greater than the outstanding bonds. This additional space is much needed to support the existing the Center's expanded operations, which includes Santa Cruz Metro Records System (SCMRS), Mobile Data Computer (MDC) system management and support; the Narrow-banding Planning Project, and dispatch services for the County of San Benito and the City of Hollister.

Additional proceeds will also be used to purchase approximately \$200,000 of equipment with a useful life of approximately 20 years.

To accomplish the funding of the space expansion and the equipment purchase, they will be added to the refinancing and the repayment term extended by 10 years.

### Financing Structure

To sell the Bonds, as was done in the previous financing, the Bonds would be sold through the Authority. This will require that the Authority enter into an Indenture of Trust with a trustee to secure the bond payments. In order to obligate Regional 9-1-1 (for financing purposes, the Santa Cruz Consolidated Emergency Communications Center Joint Powers Authority, or the "Center") to pay the Authority an amount equal to the debt service on the Bonds, the Center will lease its building to the Authority, who will lease it back to the Center pursuant to a lease agreement. This lease will secure the Center's lease payments used by the Authority to pay debt service.

Each of the Center's Members ("Participants") will enter into a Restated and Amended Use Agreement with the Center, which secures the payment each Participant's share of the lease payments, in the proportion spelled out in the Center's Joint Powers Agreement. No change in the percentage share for each Participant is contemplated. The City's share of payments for debt service under the Joint Powers Agreement is 11.96% or an estimated \$34,700 annually. The City's current share of the debt payments is \$37,200 annually.

### Funding

Based on recent interest rates, the new 22 year bonds would carry an effective interest rate of 4.7% (taking all costs of issuance into account). The par amount of the Bonds is expected to be \$3,980,000. The annual payments will be approximately \$290,000 annually.

The costs to issue the bonds are estimated at \$108,500 for fixed costs of bond counsel, financial advisor, disclosure counsel, trustee, rating agency fees, title insurance and other miscellaneous costs. The underwriter compensation is in addition to this amount.

The financial advisor obtained four fee proposals from underwriters who are familiar with Santa Cruz County: Brandis Tallman, Stone & Youngberg, Citi, and Piper Jaffray. The fees were as follows:

- Brandis Tallman      \$3.850 per bond; \$15,323
- Stone & Youngberg    \$5.248 per bond; \$20,887
- Citi                      \$8.649 per bond; \$34,423
- Piper Jaffray         \$9.970 per bond; \$39,681

The financial advisor is recommending that the Authority Bonds be sold to Stone & Youngberg for a fee of \$5.248 per bond, or approximately \$20,887. Although the Brandis Tallman fee is slightly lower at \$15,323, Stone & Youngberg has recently sold more lease revenue bonds in the primary market than Brandis Tallman and is likely to produce a better interest rate. This is a quite important factor in marketing the bonds given the recent headlines regarding Stockton and the articles in the press that indicate appropriation debt isn't as secure as a general obligation bond.

The table below provides the estimated size of the Bonds including funding of the equipment and EOC lease buyout, bond reserve funds and costs of issuance.

Sources of Funds:

Par Amount	\$3,980,000.00
Original Issue Premium	47,990.25
2002 Debt Service Reserve Fund	310,000.00
June 2012 Lease Payment	<u>233,937.50</u>
	\$4,571,927.75

Uses of Funds:

2002 Bonds Refunding Escrow	\$2,943,908.46
2012 Debt Service Reserve Fund	291,650.00
Cost of Issuance	108,500.00
Underwriter Discount	20,887.04
Project Fund	1,200,000.00
Contingency	<u>6,982.25</u>
	\$4,571,927.75

The debt service reserve fund is equal to one year's payment on the Bonds. A debt service reserve fund is required in order to increase bond holders' security and make the Bonds marketable. The debt service reserve fund is held by the trustee, earns interest and is returned as a credit against the final payment on the Bonds.

### Authorizing Resolutions and Method of Sale

The attached resolution:

- Authorizes the execution of a Restated and Amended Use Agreement; and;
- Authorizes the execution of a Continuing Disclosure Certificate in connection with the City's ongoing obligation to provide investors with financial information.

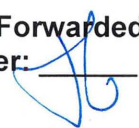
Each of the other members of the Center (the City of Santa Cruz, the City of Capitola and the City of Watsonville and the County) are required to adopt similar resolutions.

**FISCAL IMPACT:** The refinancing is estimated to reduce the City's annual share of debt service by \$2,500 over the next two years while the County continues to make lease payments on the EOC space, then increase the City's share of debt service payments by \$3,400 for the remaining 18 year term of the bonds.

### ATTACHMENTS:

1. Restated and Amended Use Agreement
2. Resolution

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

**Reviewed and Forwarded  
By City Manager:** 

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**RESTATED AND AMENDED USE AGREEMENT**

**Dated as of April 1, 2012**

**by and between**

**THE COUNTY OF SANTA CRUZ, THE CITY OF CAPITOLA, THE CITY OF SANTA  
CRUZ, AND THE CITY OF WATSONVILLE**

**and the**

**SANTA CRUZ CONSOLIDATED EMERGENCY COMMUNICATIONS CENTER  
JOINT POWERS AUTHORITY**

**\$ \_\_\_\_\_  
Santa Cruz County Public Financing Authority  
2012 Lease Revenue Bonds, Series A  
(Santa Cruz Regional 9-1-1)**

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## RESTATED AND AMENDED USE AGREEMENT

THIS RESTATED AND AMENDED USE AGREEMENT (the "Use Agreement"), dated as of April 1, 2012, by and among the SANTA CRUZ CONSOLIDATED EMERGENCY COMMUNICATIONS CENTER JOINT POWERS AUTHORITY, a joint exercise of powers agency organized and existing under the laws of the State of California, as lessor (the "Center"), the COUNTY OF SANTA CRUZ, a general law county organized and existing under the laws of the State of California (the "County"), THE CITY OF CAPITOLA ("Capitola"), THE CITY OF SANTA CRUZ ("Santa Cruz") and THE CITY OF WATSONVILLE ("Watsonville"), all municipal corporations and general law cities organized and under the laws of the State of California (the County, Capitola, Santa Cruz, and Watsonville shall collectively be referred to as the "Agencies").

### WITNESSETH:

WHEREAS, the Center wishes to provide use of the Santa Cruz Regional 9-1-1 Center (the "Project") to the Agencies and the Agencies are authorized pursuant to the laws of the State of California to enter into use agreements for such purposes; and

WHEREAS, in order to provide funds to advance refund the lease of the Project from the Center to the Santa Cruz County Public Financing Authority (the "Authority"), and from the Authority to the Center, and to finance certain equipment, the Authority has authorized the issuance of its Santa Cruz County Public Financing Authority 2012 Lease Revenue Refunding Bonds, Series A (Santa Cruz Regional 9-1-1), in the aggregate principal amount of \$ \_\_\_\_\_ (the "Bonds"), pursuant to an Indenture of Trust, dated as of April 1, 2012 (the "Indenture"), by and between the Authority and The Bank of New York Mellon Trust Company, N.A. as trustee (the "Trustee"); and

WHEREAS, the Center proposes to provide use of the Project to the Agencies as provided in this Use Agreement, for the purpose (among others) of providing amounts sufficient to provide for the Lease Payments and the payment of the principal of and interest on the Bonds; and

WHEREAS, the Center will use the proceeds of this Use Agreement to pay Lease Payments used to finance certain public improvements which are also public capital improvements, as that term is defined in the Act; and

WHEREAS, the Center and the Agencies have duly authorized the execution and delivery of this Use Agreement; and

WHEREAS, this Use Agreement amends and restates in its entirety that Restated and Amended Use Agreement, dated as of January 1, 2003, by and among the Center and the Agencies (the "Prior Use Agreement");

NOW, THEREFORE, for and in consideration of the premises and the material covenants hereinafter contained, the parties hereto hereby formally covenant, agree and bind themselves as follows:

**ARTICLE 1  
DEFINITIONS AND EXHIBITS**

**Section 1.01 Definitions.**

Unless the context clearly otherwise requires or unless otherwise defined herein, the capitalized terms in this Use Agreement shall, for all purposes of this Use Agreement, have the meanings ascribed to them in the Indenture or the Lease Agreement.

**Section 1.02 Exhibits.**

The following exhibits are attached to, and by this reference made a part of, this Use Agreement:

- Exhibit A: Description of Project Site
- Exhibit B: Schedule of Use Payments for Project for each Agency

**ARTICLE 2  
REPRESENTATIONS, COVENANTS AND WARRANTIES**

**Section 2.01 Representations, Covenants and Warranties of the Agencies.**

The Agencies, and each of them, represent, covenant and warrant to the Center as follows:

(a) Authorization. The laws of the State authorize the Agencies to enter into this Use Agreement and to enter into the transactions contemplated hereby and to carry out its obligations hereunder, and the Agencies have duly authorized and executed this Use Agreement and this Use Agreement constitutes the legal, valid and binding agreement of the Agencies, enforceable against the Agencies in accordance with its terms.

(b) No Violations. Neither the execution and delivery of this Use Agreement, nor the fulfillment of or compliance with the terms and conditions hereof and thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Agencies are now a party or by which the Agencies are bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrances whatsoever upon any of the property or assets of the Agencies, or upon the Project, except Permitted Encumbrances.

(c) Execution and Delivery. The Agencies have duly authorized and executed this Use Agreement in accordance with the laws of the State.

**Section 2.02 Represent Covenants and Warranties of Center.**

The Center represents, covenants and warrants to the Agencies as follows:

(a) Due Organization and Existence. The Center is a joint exercise of powers agency duly organized and existing under and by virtue of the laws of the State; has power to enter into this Use Agreement and the Lease Agreement; is possessed of full power to own and hold, improve and equip real and personal property, and to lease and lease back the same; and has duly authorized the execution and delivery of each of the aforesaid agreements and such agreements constitute the legal, valid and binding agreements of the Center, enforceable against the Center in accordance with their respective terms.

(b) No Encumbrances. The Center will not pledge the Use Payments or other amounts derived from the Project and from its other rights under this Use Agreement and will not mortgage or encumber the Project, except as provided under the terms of this Use Agreement, the Lease Agreement and the Indenture.

(c) No Violations. Neither the execution and delivery of this Use Agreement or the Lease Agreement, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Center is now a party or by which the Center is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition' of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Center, or upon the Project, except Permitted Encumbrances.

(d) No Assignment. Except as provided herein and the Lease Agreement, the Center will not assign this Use Agreement, its right to receive Use Payments from the Agencies, or its duties and obligations hereunder to any other person, firm or corporation so as to impair or violate the representations, covenants and warranties contained in this Section 2.02.

(e) Title to Site. The Center warrants that it has or will acquire and is or will be the owner of a leasehold interest to the Site, subject, however, to Permitted Encumbrances.

(f) Execution and Delivery. The Center has duly authorized and executed this Use Agreement in accordance with the laws of the State.

### ARTICLE 3

#### AGREEMENT TO USE; TERM OF THIS USE AGREEMENT; USE PAYMENTS

##### Section 3.01 Authorization of Use.

In consideration of the payment of Use Payments and in consideration of the execution of this Use Agreement by the Agencies, and other good and valuable consideration, the Center hereby lets to the Agencies, and the Agencies hereby let from the Center, the Project, for the Term this Use Agreement, plus one week following the end of the Term of this Agreement. This Use Agreement grants no rights of any kind to any of the Agencies to manage, control, or operate the Center and the right of each of the Agencies is limited hereunder to one of use.

### **Section 3.02 Term of Use Agreement.**

The Term of this Use Agreement shall commence as of \_\_\_\_\_, 2012 and shall end on June 15, \_\_\_\_, unless such term is extended as hereinafter provided. If on June 15, \_\_\_\_, the Indenture on the Lease Agreement shall not be discharged by its terms, or if the Lease Payments payable under the Lease Agreement shall have been abated at any time and for any reason, then the Term of this Use Agreement shall be extended until the Indenture shall be discharged by its terms. If prior to June 15, \_\_\_\_, the Indenture and the Lease Agreement shall be discharged by its terms, the Term of this Use Agreement shall thereupon end.

Notwithstanding the foregoing, it is intended that the Project will terminate upon payment of the portions of the Use Payments set forth in Exhibit B as prescribed in Section 4.07 hereof.

### **Section 3.03 Use Payments.**

(a) Obligation to Pay. In consideration of the use of the Project from the Center hereunder, the Agencies, and each of them, agree to pay to the Center, its successors and assigns, as rental for the use and occupancy of the Project during each Rental Period, the Use Payments for the Project in the amounts for the County, Capitola, Santa Cruz and Watsonville, specified in Exhibit B hereto, to be due and payable on the respective Use Payment Dates specified in Exhibit B hereto, which are based upon an aggregate borrowing of \$\_\_\_\_\_. The Agencies shall receive a credit against each Use Payment due equal to the amount of any credit received by the Center against its Lease Payment for amounts on deposit in the Bond Fund, including any amount in excess of the Reserve Requirement, as well as the amount on deposit in the Lease Payment Fund. The amount of each Agency's credit shall be in the same percentage as their individual portion of the Use Payment bears to the total Use Payment then due. The Use Payments for the Project payable in any Rental Period shall be for the use of the Project for such Rental Period.

(b) Rate on Overdue Payments. In the event the Agencies, or any of them, should fail to make any of the payments required in this Section 3.03, the payment in default shall continue as an obligation of the respective entity until the amount in default shall have been fully paid, and the Agencies, and each of them, agree to pay the same with interest thereon, to the extent permitted by law, from the date of default to the date of payment at the interest rate payable by the Authority on the Bonds, or the maximum legal rate, whichever is less. Such interest, if received, shall be deposited by the Center in the Lease Payment Fund.

(c) Source of Payments: Budget and Appropriation. The Use Payments shall be payable from any source of available funds of the Agencies.

The Agencies, and each of them, covenant to take such action as may be necessary to include all Use Payments due hereunder in each of its budgets during the Term of the Use Agreement and to make the necessary annual appropriations for all such Use Payments. The covenants on the part of the Agencies, and each of them, herein contained shall be deemed to be and shall be construed to be ministerial duties imposed by law and it shall be the duty of each and every public official of the Agencies to take such action and do such things as are required

by law in the performance of the official duty of such officials to enable the Agencies and the Center to carry out and perform the covenants and agreements in this Use Agreement agreed to be carried out and performed by the Agencies and the Center.

(d) In addition to the Use Payments, the Agencies, and each of them in the same percentage as their individual portion of Use Payments bears to total Use Payments, shall pay when due the Additional Payments payable by the Center under the Lease Agreement, or indicating their individual proportionate shares thereof.

### **Section 3.04 Optional Prepayment.**

The Agencies, and each of them, shall have the right at any time to prepay all, or any part, of the Use Payments, and the Center and the Authority agree that the Trustee shall accept such prepayments when the same are tendered by the Agencies.

The Agencies, or any of them, may prepay their proportionate share of Use Payments by depositing with the Center for transfer to the Trustee for deposit in the Redemption Fund, the "Prepayment Amount", which is calculated as follows:

(a) Divide the Participant's total remaining Use Payments by the total of all remaining Use Payments and multiply the result by the principal amount of any Outstanding Bonds. Round the result up to the nearest \$5,000.

(b) Multiply this amount by the redemption premium, if any, on the Bonds and add to such amount the amount determined by the Controller of the Center to be the difference between the amount needed to pay Debt Service on the Bonds to be redeemed and the amount to be derived from the reinvestment of the prepaid Use Payments pending the redemption of such Bonds (subject to any limitations imposed by the Tax Code on such earnings). Add this amount to the amount determined in (a) above.

(c) The administrative fees of the Center as are determined by the Controller of the Center, which include the costs of the computation of the Prepayment Amount, the costs of redeeming the Bonds, the costs of any fiduciary, and the costs of recording or publishing any notices of redemption. Add these costs to the total of the amounts determined in (a) and (b) above.

(d) The Reserve Account credit, if any, is computed by deducting the Reserve Requirement for the Bonds to remain Outstanding following such redemption from the current Reserve Requirement. Deduct the result from the total of the amounts determined in (a), (b) and (c) above. This represents the Prepayment Amount.

(e) The Prepayment Amount will be deposited in the Redemption Fund and used to redeem Bonds in accordance with a Certificate of the Center and the Authority; provided that the administrative fees of the Center determined in (c) above will be retained by the Center.

All such prepayments shall be deposited upon receipt in the Redemption Fund, and applied to redeem or purchase Bonds pursuant to the Indenture. Each Agency also shall have the right to surrender Bonds acquired by it in any manner whatsoever to the Trustee for cancellation

and such Bonds, upon such surrender and cancellation, shall be deemed to be paid and surrendered, and shall be allocated to Use Payments as specified in a Certificate of the Center. Notwithstanding any such prepayment or surrender of Bonds, as long as any Bonds remain outstanding or any Additional Payments remain unpaid, the Agencies shall not be relieved of their obligations hereunder.

In the event the Agencies, or any of them, deposit with the Trustee the full amount of any prepayment of the Use Payments pursuant to this Section 3.04, the Center shall at the request of the Agencies, or any of them, forthwith take all steps that may be necessary under Section 4.01(b) of the Indenture to cause the redemption of all or a portion of Bonds under and in accordance with Section 4.01(b) of the Indenture.

If the Agencies are not in default in the payment of any Additional Payments, the Center, at the request of the Agencies, at any time that there is on deposit with the Trustee moneys or securities in the amount necessary to pay or redeem all Bonds then Outstanding (as provided in Article X of the Indenture), shall forthwith take all steps that may be necessary to discharge the entire indebtedness on Bonds Outstanding.

Use Payments due after any such partial prepayment shall be in the amounts set forth in a revised Use Payment schedule which shall be provided by, or caused to be provided by the Center to the Trustee and the Agencies and which shall represent an adjustment to the schedule set forth in Exhibit B attached hereto taking into account said partial prepayment.

**Section 3.05 Amendment of the Use Agreement.**

Neither the Center nor the Agencies will alter, modify or cancel, or agree to consent to alter, modify or cancel the Use Agreement except for the following purposes:

- (a) issuing Additional Bonds pursuant to the Indenture;
- (b) substituting the Project pursuant to the Lease Agreement; or
- (c) modifying Exhibit B hereto for the purpose of (i) modifying the percentage that each Agency's individual portion of the Use Payments bears to the total Use Payments, or (ii) to add or remove Agencies, or any of them.

**ARTICLE 4  
USE DEFAULT EVENTS ALL REMEDIES**

**Section 4.01 Use Default Events Defined.**

The following shall be "Use Default Events" under this Use Agreement:

- (a) Failure by the Agencies, or any member thereof, to pay any Use Payment, or any portion thereof, required to be paid hereunder at the time specified herein.

(b) Failure by the Agencies, or any member thereof, to make any Additional Payment, or any portion thereof, required hereunder and the continuation of such failure for a period of thirty (30) days.

(c) Failure by the Agencies, or any member thereof, to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Use Agreement, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the Agencies by the Center, the Authority or the Trustee; provided, however, if the failure stated in the notice can be corrected, but not within the applicable period, the Authority, the Center and the Trustee shall not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the Agencies within the applicable period and diligently pursued until the default is corrected.

(d) The filing by the Agencies, or any member thereof, of a voluntary petition in bankruptcy, or failure by the Agencies, or any member thereof, promptly to lift any execution, garnishment or attachment, or adjudication of the Agencies, or any member thereof, as a bankrupt, or assignment by the Agencies, or any member thereof, for the benefit of creditors, or the entry by the Agencies, or any member thereof, into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Agencies, or any member thereof in any proceedings instituted under the provisions of the Federal Bankruptcy Act, as amended, or under any similar acts which may hereafter be enacted.

#### **Section 4.02 Remedies on Default.**

Whenever any Use Default Event referred to in Section 4.01 hereof shall have happened and be continuing, it shall be lawful for the Center to exercise any and all remedies available pursuant to law or granted pursuant to this Use Agreement. Each and every covenant hereof to be kept and performed by the Agencies is expressly made a condition and upon the breach thereof the Authority or the Center may exercise any and all rights of entry and reentry upon the Project. In the event of such default and notwithstanding any re-entry by the Authority or the Center, the Agencies shall, as herein expressly provided, continue to remain liable for the payment of the Use Payments and/or damages for breach of this Use Agreement and the performance of all conditions herein contained and, in any event, such rent and/or damages shall be payable to the Center at the time and in the manner as herein provided, to wit:

(a) The Agencies agree to and shall remain liable for the payment of all Use Payments and the performance of all conditions herein contained and shall reimburse the Center and the Authority for any deficiency arising out of the reletting of the Project, or, in the event the Authority is unable to relet the Project, then for the full amount of all Use Payments to the end of the Term of the Use Agreement, but said Use Payments and/or deficiency shall be payable only at the same time and in the same manner as hereinabove provided for the payment of Lease Payments hereunder, notwithstanding such entry or re entry by the Authority and the Center or any suit in unlawful detainer, or otherwise, brought by the Authority for the purpose of effecting such re entry or obtaining possession of the Project or the exercise of any other remedy by the Authority or the Center.



(b) The Agencies hereby irrevocably appoint the Authority as the agent and attorney in fact of the Center to enter upon and relet the Project in the event of default by the Agencies in the performance of any covenants herein contained to be performed by the Agencies and to remove all personal property whatsoever situated upon the Project to place such property in storage or other suitable place in the County of Santa Cruz, for the account of and at the expense of the Agencies, and the Agencies hereby exempt and agree to save harmless the Authority and the Center from any costs, loss or damage whatsoever arising or occasioned by any such entry upon and reletting of the Project and the removal and storage of such property by the Authority or the Center or its duly authorized agents in accordance with the provisions herein contained.

(c) The Agencies hereby waive any and all claims for damages caused or which may be caused by the Authority or the Center in reletting and taking possession of the Project as herein provided and all claims for damages that may result from the destruction of or injury to the Project and all claims for damages to or loss of any property belonging to the Agencies that may be in or upon the Project.

(d) The Agencies agree that the terms of this Use Agreement constitute full and sufficient notice of the right of the Authority or the Center to use the Project in the event of such re entry without effecting a surrender of this Use Agreement, and further agree that no acts of the Authority or the Center in effecting such use shall constitute a surrender or termination of this Use Agreement irrespective of the term for which such use is made or the terms and conditions of such use, or otherwise.

(e) The Agencies further waive the right to any rental obtained by the Authority or the Center in excess of the Use Payments and hereby convey and release such excess to the Authority as compensation to the Authority for its services in reletting the Project.

If, and to the extent, that any Agency fails to make timely payment of any Use Payment, or any portion thereof, in addition to any remedy available to the Center, the Authority and/or the Trustee, as provided herein, any Agency may bring an action for collection, or exercise any other remedy available to it under applicable law, pursuant to the terms of this Use Agreement against the defaulting Agency as the parties hereto declare that the obligations to make Use Payments is one for the benefit of the Bondowners, the Authority, the Center, and each Agency in that all will be adversely affected by any individual payment default. The obligation to make Use Payments is one which is owed by the Agencies and each of them, to the Center and each other. Any Agency collecting Use Payments from any other Agency, by whatever means, shall promptly pay such amounts to the Center for deposit in the Lease Payment Fund as the Use Payment for the defaulting Agency.

#### **Section 4.03 No Remedy Exclusive.**

No remedy herein conferred upon or reserved to the Center is intended to be exclusive and every such remedy shall be cumulative and shall, except as herein expressly provided to the contrary, be in addition to every other remedy given under this Use Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as

may be deemed expedient. In order to entitle the Center to exercise any remedy reserved to it in this Article IV it shall not be necessary to give any notice, other than such notice as may be required in this Article IV or by law.

**Section 4.04 Agreement to Pay Attorneys' Fees and Expenses.**

In the event any party to this Use Agreement should default under any of the provisions hereof and the nondefaulting parties should employ attorneys or incur other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting parties herein contained, the defaulting party agrees that it will on demand therefor pay to the nondefaulting parties the reasonable fees of such attorneys and such other expenses so incurred by the nondefaulting party.

**Section 4.05 No Additional Waiver Implied by One Waiver.**

In the event any agreement contained in this Use Agreement should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

**ARTICLE 5  
MISCELLANEOUS**

**Section 5.01 Notices.**

All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed to have been received 48 hours after deposit in the United States mail in first class form with postage fully prepaid:

If to the Center:	Santa Cruz Regional 9-1-1 495 Upper Park Road Santa Cruz, CA 95065 Attn: General Manager
If to the City of Capitola:	City of Capitola 420 Capitola Avenue Capitola, CA 95010 Attn: City Manager
If to the City of Santa Cruz:	City of Santa Cruz 809 Center Street Santa Cruz, CA 95060 Attn: City Manager
If to the County of Watsonville:	City of Watsonville 250 Main Street Watsonville, CA 95076 Attn: City Manager

If to the County of Santa Cruz:

County of Santa Cruz Government Center  
701 Ocean Street  
Santa Cruz, CA 95060  
Attn: County Administrative Officer

The Center and the Agencies, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

**Section 5.02 Binding Effect.**

This Use Agreement shall inure to the benefit of and shall be binding upon the Center and the Agencies and their respective successors and assigns.

**Section 5.03 Severability.**

In the event any provision of this Use Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 5.04 Net-net-net.**

This Use Agreement shall be deemed and construed to be “net-net-net” and the Agencies hereby agree that the Use Payments shall be an absolute net return to the Center, free and clear of any expenses, charges or set-offs whatsoever.

**Section 5.05 Further Assurances and Corrective Instruments.**

The Center and the Agencies agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Project hereby leased or intended so to be or for carrying out the expressed intention of this Use Agreement.

**Section 5.06 Execution in Counterparts.**

This Use Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 5.07 Applicable Law.**

This Use Agreement shall be governed by and construed in accordance with the laws of the State.

**Section 5.08 Authorized Representatives.**

Whenever under the provisions of this Use Agreement the approval of the Center or the Agencies are required, or the Center or the Agencies is required to take some action at the request of the other, such approval or such request shall be given for the Center by an Authorized

Representative of the Center and for the Agencies by an Authorized Representative of the Agencies, and any party hereto shall be authorized to rely upon any such approval or request.

**Section 5.09 Captions.**

The captions or headings in this Use Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Use Agreement.

IN WITNESS WHEREOF, the Center has caused this Use Agreement to be executed in its corporate name by its duly authorized officers and the County of Santa Cruz, the City of Capitola, the City of Santa Cruz, and the City of Watsonville has caused this Use Agreement to be executed in its name by its duly authorized officers as of the date first above written.

SANTA CRUZ CONSOLIDATED  
EMERGENCY COMMUNICATIONS  
CENTER JOINT POWERS AUTHORITY

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

CITY OF CAPITOLA

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

CITY OF SANTA CRUZ

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

CITY OF WATSONVILLE

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

COUNTY OF SANTA CRUZ

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

Exhibit B to Restated and Amended Use Agreement  
(Draft as of March 26, 2012)

Year ending <u>June 1</u>	Annual <u>Use Payment</u>	County <u>47.53%</u>	Capitola <u>11.96%</u>	Santa Cruz <u>22.86%</u>	Watsonville <u>17.65%</u>	Total <u>100.00%</u>
2013	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2014	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2015	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2016	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2017	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2018	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2019	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2020	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2021	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2022	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2023	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2024	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2025	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2026	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2027	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2028	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2029	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2030	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2031	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2032	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2033	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00
2034	290,000	137,837.00	34,684.00	66,294.00	51,185.00	290,000.00

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA (THE "CITY") APPROVING THE FORM AND AUTHORIZING THE EXECUTION OF A RESTATED AND AMENDED USE AGREEMENT BETWEEN THE SANTA CRUZ CONSOLIDATED EMERGENCY COMMUNICATIONS CENTER JOINT POWERS AUTHORITY (THE "CENTER") AND THE CITY**

WHEREAS, the Santa Cruz Consolidated Emergency Communications Center Joint Powers Authority (the "Center") wishes to institute proceedings to refinance certain public capital improvements, finance certain public improvements, finance a payment with respect to the termination of the County of Santa Cruz's lease of certain space within the Center's facilities and, in implementation thereof, proposes to lease and lease-back certain facilities (the "Project") as more particularly described in the form of Lease Agreement, dated as of April 1, 2012, by and between the Santa Cruz County Public Financing Authority and the Center (the "Lease Agreement"); and

WHEREAS, the Center proposes to let the Project, pursuant to the Restated and Amended Use Agreement dated as of April 1, 2012 (the "Use Agreement"), in exchange for certain Use Payments thereunder in the aggregate amounts and at the times sufficient to provide for the retirement of lease revenue bonds to be issued by the Authority to finance the Project;

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

Section 1. Findings and Determinations. The City Council of the City of Capitola hereby finds and determines that it is for the common benefit of the City and its residents and is necessary and proper for public purposes that the City enter into the Use Agreement with the Center.

Section 2. Approval of Use Agreement. The City Council hereby approves the Use Agreement in the form on file with the City Clerk, and authorizes and directs the City Manager or her designee to execute and the City Clerk to attest and affix the seal of the City to the Use Agreement in such final form as may be necessary or convenient as determined by bond counsel to conform the Use Agreement to the proceedings for the issuance of such lease revenue bonds.

Section 3. Approval of Continuing Disclosure Certificate. The City Council hereby approves the Continuing Disclosure Certificate in the form on file with the City Clerk, and authorizes and directs the City Manager or their designee to execute the Continuing Disclosure Certificate in such final form as may be necessary or convenient as determined by disclosure counsel.

Section 4. Official Actions. The Mayor, Vice Mayor, City Manager and the Legal Counsel and any and all other officers of the City to make any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they or any of them might deem necessary or appropriate in order to consummate the lawful execution and delivery of the Use Agreement by the City and the authorization, sale and delivery of such lease revenue bonds.

This Resolution was approved and adopted at a regular meeting of the City Council held on the 22nd day of April, 2012 by the following roll call vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Michael Termini, Mayor

ATTEST:

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