



**AGENDA COVER**  
Regular Joint Meeting of the  
**CAPITOLA CITY COUNCIL/  
REDEVELOPMENT AGENCY**  
MEETING DATE: THURSDAY, JUNE 23, 2011

CITY COUNCIL CHAMBERS: 420 CAPITOLA AVENUE, CAPITOLA

<b>CLOSED SESSION</b>	<b>5:30 P.M.</b>
<b>JOINT CITY COUNCIL/REDEVELOPMENT AGENCY REGULAR MEETING</b>	<b>7:00 P.M.</b>

*Elected Officials*

*Dennis Norton, Mayor*  
*Michael Termini, Vice Mayor*  
*Stephanie Harlan, Council Member*  
*Kirby Nicol, Council Member*  
*Sam Storey, Council Member*  
  
*Jacques Bertrand, City Treasurer*

*City Staff Members*

*Jamie Goldstein, City Manager*  
*John G. Barisone, City Attorney*  
*Pamela Greeninger, City Clerk*  
*Mike Card, Chief of Police*  
*Derek Johnson,*  
*Community Development Director*  
*Steven Jesberg, Public Works Director*

**Notice regarding City Council/Redevelopment Agency Meetings:** The Capitola City Council and Redevelopment Agency meet jointly on the 2nd and 4th Thursday of each month at 7:00 p.m., in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

**Agenda and Agenda Packet Materials:** The City Council/Redevelopment Agency 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/Redevelopment Agency 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.

**It is the intent of the City Council to adjourn by 11:30 p.m.**



# AGENDA

## Regular Joint Meeting of the CAPITOLA CITY COUNCIL/REDEVELOPMENT AGENCY Thursday, June 23, 2011

### **5:30 P.M - CLOSED SESSION - 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/Redevelopment Agency Directors on closed session items only.

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

Surf and Sand, LLC vs. City of Capitola, et al. (Surf & Sand Mobile Home Park) [Superior Court of the State of California for County of Santa Cruz, Case #CV 167716]

Surf and Sand, LLC vs. City of Capitola, et al. (Surf & Sand Mobile Home Park) [U.S. District Court N.D., Case No. C09-05542 RS (Judge Richard Seeborg)]

Los Altos/El Granada Investors vs. City of Capitola, et al. (Castle Mobile Estates) [U.S. District Court N.D., Case No. CV 04-05138 JF (Judge Jeremy Fogel)]

Veronica Shepardson, et al. (residents of Surf & Sand Mobile Home Park) vs. City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV 171269]

#### **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to subdivision (b) of Government Code §54956.9:  
One Case

#### **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Initiation of litigation pursuant to subdivision (c) of Government Code §54956.9:  
One Case – City of Capitola vs. Pacific Gas & Electric Company (PG&E)  
SmartMeter Moratorium Ordinance Violation

#### **PUBLIC EMPLOYEE PERFORMANCE EVALUATION** (Government Code §54957)

Title: City Attorney

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

Claimant: Maxine Dee Viola, et al.

Claimant: Mark Cameron, et al.

Claimant: Randall Howard, et al.

Agency claimed against: City of Capitola

**7:00 P.M. - REGULAR JOINT MEETING  
OF THE CAPITOLA CITY COUNCIL/REDEVELOPMENT AGENCY**

**ROLL CALL AND PLEDGE OF ALLEGIANCE**

Council Members/Directors Harlan, Termini, Nicol, Storey,  
and Mayor/Chairperson Norton

**\* \* \* PRESENTATIONS \* \* \***

Presentation of Capitola Green Building Award to  
Curtis and Susan Tossy  
for building their home located at 607 Sunset Drive  
pursuant to the City's Green Building Program  
with a total of 64 Points

Introduction of Newly Promoted Police Sergeant Andy Dally,  
and Newly Appointed Police Officers  
Kraig Evans and Daniel Weagle

**Introduction of Capitola Police Department Chaplains**

Kathi Howard, Trevor Lee, Richard Rice, Dick Tennesen and Roger Welsh

**Introduction of Capitola Police Department Explorers**

Brantley Sandretti, Tyler Osborne, and Nathan Keane

**Introduction of Capitola Police Department Volunteers in Policing**

Robert Anderson, Linda Banks, Michael Banks, Kris Banuelos,  
Gayle Brock, Konnie Bugge, Cathy Card, Diana Cunningham,  
Dave Dominguez, Don Enos, Lewis Feinman, Jamie Ginsbach, Mary Hay,  
Kimberly Hogan, Kathy Kelly, Bill Marun, James Schofield, & Gail Wingert

**Presentation of Mayor's Proclamations**

to Parking Enforcement Officers Ben Irao and Oscar Valdez  
for their Fundraising Efforts and Participation in the  
Special Olympics Law Enforcement Torch Run in Capitola

Presentation by Bill McCabe, Youth Services Director of the  
Santa Cruz Community Counseling Center

## 1. REPORT ON CLOSED SESSION

## 2. ORAL COMMUNICATIONS

### A. Additions and Deletions to Agenda

### B. Public Comments

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

### C. Staff Comments

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

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

### E. Committee Appointments

*Council Members/RDA Directors/Committee Representatives may present oral updates from standing committees at this time. Committee appointments may also be made by the City Council/Redevelopment Agency at this time.*

- 1) Consideration of the Art and Cultural Commission's recommendation to appoint Sterling Nathan Cross to fill the At-Large Member vacancy on the Commission with a term ending December 31, 2011. Staff recommendation: City Council appointment.

### F. Approval of Check Register Reports

- 1) City: Approval of City Check Register Reports dated June 3 and June 10, 2011.
- 2) RDA: Approval of Redevelopment Agency Check Register Report dated June 10, 2011.

### 3. **CONSENT CALENDAR**

*All matters listed under “Consent Calendar” are considered by the City Council/Redevelopment Agency to be routine and 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 Council request specific items to be discussed for separate review. Items pulled for separate discussion will be considered following “Other Business.”*

- A. Approve Reading by Title of all Ordinances and Resolutions and declare that said Titles which appear on the Public Agenda shall be determined to have been read by Title and Further Reading Waived.
- B. City/RDA: Approve Minutes of the Regular Joint Meetings of the City Council/Redevelopment Agency of May 26 and June 9, 2011, and the Special Joint Budget Study Session of June 2, 2011.
- C. Adopt Ordinance Amending the Title of Section 2.18.120 and Adding Subsection E. to Section 2.18.120 of the Capitola Municipal Code pertaining to Mobile Home Park Rent Stabilization. [2<sup>nd</sup> Reading]
- D. Accept update report on the Rispin Property Hazard Abatement Project and, by 4/5 vote approval, make the determination that all hazards at the Rispin Property have not been eliminated and there is need to continue action.
- E. Deny liability claims and forward to the City’s liability insurance carrier.
  - 1) Maxine Dee Viola, et al. - \$790,000
  - 2) Mark Cameron, et al. - an undetermined amount
  - 3) Randall Howard, et al. - \$14,443.90
- F. City/RDA: Authorize the City Manager to execute a three year agreement for professional auditing services with Rogers, Anderson, Malody & Scott, LLP, Certified Public Accountants, to conduct the 2011/12 through 2013/14 fiscal year audits for both the City of Capitola in the amount of \$25,160 and the Redevelopment Agency in the amount of \$5,800.
- G. Approve plans, specifications, and engineer’s estimate for the Cherry Avenue Street Rehabilitation Project and authorize advertising for bids.

### 3. CONSENT CALENDAR – Continued

- H. Adopt Resolution approving the new classification and job description for Administrative Services Director and approve an Employment Agreement with Lisa Murphy for the position effective July 10, 2011.
- I. Approve the First Amendment to the Agreement for City Attorney Services with Atchison, Barisone, Condotti & Kovacevich in the amount of \$133,560 for Fiscal Year 2011/2012.
- J. RDA: Approve a sole source contract with Carolyn Flynn for an amount not to exceed \$15,000 for FY 2011-2012 for professional services related to Redevelopment Agency Affordable Housing Programs and Economic Development Projects.
- K. City: Approve a sole source contract with Carolyn Flynn for an amount not to exceed \$20,336 for FY 2011-2012 for assistance with the City's Economic Development, Environmental Sustainability and Flood Relief grants and overall administration of the City's Community Development Block Grant (CDBG) Program.
- L. City: Receive City Treasurer's Report for the month ended May 31, 2011 (Unaudited).

### 4. PUBLIC HEARINGS - None

### 5. OTHER BUSINESS

- A. Coastal Watershed Council Report on 2010 storm water activities. Staff recommendation: receive oral report and award a contract to Coastal Watershed Council in the amount of \$15,000 for Storm Water Education and Outreach Services in 2011.
- B. Ordinance adding Section 9.12.080 to the Capitola Municipal Code pertaining to Noise [1<sup>st</sup> Reading]. Staff recommendation: adopt ordinance and approve a Notice of Exemption from CEQA.
- C. Ordinance Amending Sections 10.44.020 and 10.44.070 of the Capitola Municipal Code pertaining to Bicycle Licenses [1<sup>st</sup> Reading]. Staff recommendation: adopt ordinance.

**5. OTHER BUSINESS - Continued**

- D. Proposed Administrative Policy: Fund Balance Policy. Staff recommendation: approve policy. (Continued from meeting of June 9, 2011.)
- E. SmartMeter Ordinance Moratorium Implementation. Staff recommendation: Council direction.

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

**6. COUNCIL/RDA DIRECTOR/STAFF COMMUNICATIONS****7. ADJOURNMENT**

Adjourn to the next Regular Joint Meeting of the City Council/Redevelopment Agency to be held on Thursday, July 14, 2011, at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Item #: 2.E.1)

## CITY COUNCIL AGENDA REPORT

MEETING OF MARCH 11, 2010

FROM: OFFICE OF THE CITY CLERK

DATE: JUNE 15, 2011

SUBJECT: APPOINTMENT OF AT-LARGE MEMBER TO THE CAPITOLA ART & CULTURAL COMMISSION

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**Recommended Action:** By motion and voice vote, that the City Council consider the Art & Cultural Commission's recommendation to appoint Sterling Nathan Cross to fill the At Large Member vacancy on the Commission, with a term ending December 31, 2011.

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### **BACKGROUND**

On April 12, 2011, the City received notification from Art & Cultural Commission member Marsha Taffett of her resignation from the commission since she would be leaving the area.

Recruitment commenced on April 15, 2011 for the At-Large Member vacancy, with the deadline for applications set for May 2, 2011. A copy of the notice is attached. The recruitment information was available at Capitola City Hall, the Capitola Branch Library, and online at the city's website. The vacancy was noticed on the Community Channel 8 scroll and provided to local publications.

### **DISCUSSION**

Two applications were received from the following Capitola residents and are attached:

Rachell Summers and Sterling Nathan Cross

The Art & Cultural Commission interviewed the applicants at its meeting held on Tuesday, June 14, 2011. Administrative Assistant to the Commission, Kelly Barreto, informed staff that the Art & Cultural Commissioner's recommendation to fill the vacancy is Sterling Nathan Cross.

**FISCAL IMPACT** - None

### **ATTACHMENTS**

- 1) Vacancy Notice dated April 15, 2011
- 2) Applications from Rachell Summers and Sterling N. Cross
- 3) Current Art & Cultural Commission Roster

**Report Prepared By:** Pamela Greeninger, MMC  
City Clerk

**Reviewed and Forwarded  
By City Manager:**





CITY OF CAPITOLA  
420 Capitola Avenue  
Capitola, CA 95010  
(831) 475-7300  
FAX (831) 479-8879

**APPLICATIONS FOR APPOINTMENT TO:  
Capitola Art & Cultural Commission**

**NOTICE IS HEREBY GIVEN**, pursuant to Government Code Section 54974, that recruitment has commenced to fill one (1) At-Large Member vacancy of an unexpired term ending December 2011, on the Capitola Art & Cultural Commission.

The Capitola City Council is seeking applications from persons who are 18 years of age or older, preferably Capitola residents, and are interested in guiding, encouraging and promoting cultural activities in the City. A copy of Municipal Code Chapter 2.56 regarding the Art & Cultural Commission is attached. The Commission meets monthly at Capitola City Hall on the second Tuesday of each month at 6:30 p.m. Specific questions regarding commissioner duties or other information regarding the Art & Cultural Commission can be directed to Lisa Murphy, Assistant to the City Manager, at (831) 475-7300, Ext. 236, or by email at [lmurphy@ci.capitola.ca.us](mailto:lmurphy@ci.capitola.ca.us).

Pursuant to the Art & Cultural Commission Bylaws, applications will be forwarded to the Chairperson of the Commission and applicants will be required to attend a regular meeting of the Commission on Tuesday, May 10, 2011, where they will confer with the Chair and Commissioners. The Chair will then forward the Commission's recommendation to the City Clerk/Mayor. An appointment will be made by a majority vote of the City Council at their regular meeting to be held on Thursday, May 26, 2011

**Application Deadline: Monday, May 2, 2011**

Applications may be obtained from the Receptionist at Capitola City Hall, 420 Capitola Avenue, or by calling (831) 475-7300 and requesting an application be sent to you. In addition, a notice with an application form is available in the foyer at City Hall, at the Capitola Branch Library, 2005 Wharf Road, and on the City's Website (for printing) by clicking on **current vacancies** at <http://www.ci.capitola.ca.us/capcity.nsf/CtyCnclComm.html>

I, Michele Deiter, Records Coordinator of the City of Capitola, California, hereby certify that the above Notice was posted on April 15, 2011.

Dated: April 15, 2011

  
Michele Deiter  
Records Coordinator



CITY OF CAPITOLA  
420 Capitola Avenue  
Capitola, CA 95010  
(831) 475-7300  
FAX (831) 479-8879

APPLICATION FOR SERVICE ON THE  
**Capitola Art & Cultural Commission**  
**At-Large Member**

**RECEIVED**  
APR 28 2011  
CITY OF CAPITOLA

PLEASE TYPE OR PRINT

NAME OF APPLICANT: Rachell Summers

RESIDENCE ADDRESS: 501 Plum St. #51  
Capitola, CA 95010

MAILING ADDRESS:  
*(If Different)*

EMAIL ADDRESS: rachellsummers@yahoo.com

TELEPHONE NO.: (H) \_\_\_\_\_ (C) 831 206-1901 (W) \_\_\_\_\_

EMPLOYMENT: Exec. Asst - Hartnell College - recently retired

**DESCRIBE YOUR QUALIFICATIONS AND INTEREST IN SERVING ON THE ART & CULTURAL COMMISSION:** *(Use additional page if necessary)*

I want to give back to the city of Capitola which surrounds me with such peace and tranquility. I am an artist at heart and possess a sensitive nature. For committee work, I am sensible, flexible and friendly. I would enthusiastically apply myself to any aspect of this commission. Sometimes passion is as important as degrees and awards. I believe art can transform and inspire and would like to be a part of that process.

DATE: 4-28-2011

*R Summers*  
*(Signature of Applicant)*

Mail or Deliver Application to:  
Capitola City Hall, Attn: City Clerk  
420 Capitola Avenue, Capitola, CA 95010

A vacancy notice with an application form can also be obtained on the Web (for printing) by clicking on current vacancies at: <http://www.ci.capitola.ca.us/capacity.nsf/Cty/CnclComm.html>



CITY OF CAPITOLA  
420 Capitola Avenue  
Capitola, CA 95010  
(831) 475-7300  
FAX (831) 479-8879

APPLICATION FOR SERVICE ON THE  
**Capitola Art & Cultural Commission**  
**At-Large Member**

**RECEIVED**  
MAY 2 2011  
CITY OF CAPITOLA

PLEASE TYPE OR PRINT

**NAME OF APPLICANT:**  Sterling Cross

**RESIDENCE ADDRESS:**  620 Gilroy Dr.  
 Capitola, CA 95010

**MAILING ADDRESS:** \_\_\_\_\_  
*(If Different)*

**EMAIL ADDRESS:**  4xross@gmail.com

**TELEPHONE NO.:**  (H) 462-4137 (C) 212-9388 (W) same

**EMPLOYMENT:**  Senior Program Director, New Teacher Center

**DESCRIBE YOUR QUALIFICATIONS AND INTEREST IN SERVING ON THE ART & CULTURAL COMMISSION:** *(Use additional page if necessary)*  
 Please see attached

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DATE:**  4/28/2011

*Sterling N. Cross*   
*(Signature of Applicant)*

Mail or Deliver Application to:  
Capitola City Hall, Attn: City Clerk  
420 Capitola Avenue, Capitola, CA 95010

A vacancy notice with an application form can also be obtained on the Web (for printing) by clicking on current vacancies at: <http://www.ci.capitola.ca.us/capacity.nsf/Cty/CnclComm.html>

I believe my participation on the Capitola Art and Cultural Commission will provide me with an opportunity to be an official part of the many vibrant Capitola art and cultural activities in our community

My work experience demonstrates over 40 years of commitment to the public education system. I have held a variety of roles while serving in public education. One of the critical roles I was responsible for coordinating the art and music programs in the Live Oak School District. One of my accomplishments in this position was the successful writing of a Lucille Packard Foundation grant for the arts. This grant focused on providing instrumental and choral music to all of the elementary school students in the district. In addition to music the funds supported a part time art teacher for each of the three elementary schools. The program was recognized by the foundation as a model for other school districts to replicate.

During my tenure in the district I also served as a middle school principal for 17 years. During that period of time I was fortunate enough to have a successfully implemented an elective music and art program that more than eighty percent of the school population of 840 participated in each year.

I firmly believe that in this time in my life I am ready to get more involved in my community and support activities that benefit both the community and the vacation population that visits our area each year.

I have been a resident and a property owner in Capitola for the past 7 years. For the past 5 years, I have participated in various community activities such as the annual Begonia Festival, where I facilitated the Fishing Derby activity and fundraising events. During my participation in these activities, I have listened to community members describe the importance of keeping Capitola a unique and special beach side town. Visitors have frequently commented to me what a wonderful place Capitola is to visit and to live in. It is my sincere desire to have the opportunity to preserve that uniqueness by making sure that one of the many things Capitola is know for is it's art, music and other cultural events that serve both the community as a whole and the visitors who frequent our town.

Sterling Cross

(Attachment to 4/28/11 Art + Cultural Commission Application)



**CITY OF CAPITOLA**  
 420 Capitola Avenue  
 Capitola, CA 95010  
 (831) 475-7300  
 FAX (831) 479-8879

## CAPITOLA ART & CULTURAL COMMISSION CURRENT MEMBERS

<u>NAME</u>	<u>ADDRESS AND PHONE NUMBER</u>	<u>DATE APPOINTED</u>	<u>TERM EXPIRES</u>
Hale, Debbie [At Large Member]	1858 43 <sup>rd</sup> Avenue Capitola, CA 95010 (H) 462-6653 (W) 831-775-4410 Email: <a href="mailto:debnandy@sbcglobal.net">debnandy@sbcglobal.net</a>	3/23/06 1/18/07 12/13/07 12/10/09	12/11
Johnson, Roy [Arts Professional] Vice-Chair	1055 17 <sup>th</sup> Avenue Santa Cruz, CA 95062 (H) 476-1773 (W) 464-0567 Email: <a href="mailto:roy@johnsonartstudio.com">roy@johnsonartstudio.com</a>	3/10/05 1/12/06 12/13/07 12/10/09	12/11
Murphy, Joyce [At Large Member]	540 Riverview Drive Capitola, CA 95010 (H) 475-2950 (W) 476-3855 Email: <a href="mailto:pacificgallery@sbcglobal.net">pacificgallery@sbcglobal.net</a>	1/18/07 12/11/08 12/09/10	12/12
Nevis, Karen [Artist]	4320 Clares Street, #G Capitola, CA 95010 (H) 479-0787 Email: <a href="mailto:karen@karennevis.com">karen@karennevis.com</a>	7/24/03 1/12/06 12/13/07 12/10/09	12/11
Shelton, Jenny [At Large Member]	5408 Baffy Court Soquel, CA 95073 (W & H) 479-0796 (C) 247-9489 Email: <a href="mailto:jenny@sheltondesign.com">jenny@sheltondesign.com</a>	4/22/10 12/09/10	12/12
Smith, Linda [Planning Com Rep]	1587 Prospect Avenue Capitola, CA 95010 (H) 475-6494 (C) 818-3049 Email: <a href="mailto:capitolalinda2@gmail.com">capitolalinda2@gmail.com</a>	1/20/11	12/12
Termini, Michael [City Council Representative]	503 Oak Drive Capitola, CA 95010 (W) 476-6206 Email: <a href="mailto:michael@triadelectric.com">michael@triadelectric.com</a>	7/27/03 12/09/04 1/18/07 12/11/08 (Plan Com Rep) 12/09/10	12/12

<u>NAME</u>	<u>ADDRESS AND PHONE NUMBER</u>	<u>DATE APPOINTED</u>	<u>TERM EXPIRES</u>
Wallace, James [At Large Member]	608 Gilroy Drive Capitola, CA 95010 (H) 476-1396 (W) 419-3507 Email: <a href="mailto:jocamo49@yahoo.com">jocamo49@yahoo.com</a>	12/13/07 12/10/09	12/11

VACANT [At Large Member]	Capitola, CA 95010 (H) _____ (C) _____ Email:		
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**STAFF REPRESENTATIVE:**

Kelly Barreto (831) 475-7300, Ext. 297  
Email: [kbarreto@ci.capitola.ca.us](mailto:kbarreto@ci.capitola.ca.us)

[Revised: 6/14/11 pam]



## CITY COUNCIL AGENDA REPORT

### MEETING OF JUNE 23, 2011

FROM: FINANCE DEPARTMENT  
 DATE: June 15, 2011  
 SUBJECT: APPROVAL OF CITY CHECK REGISTER REPORTS

**Recommended Action:** By motion and roll call vote, that the City Council approve the attached Check Register Reports for June 3 and June 10, 2011.

#### **DISCUSSION**

The attached Check Registers for:

Date	Starting Check #	Ending Check #	Total Checks	Amount
6/3/11	66433	66510	78	\$200,254.29
6/10/11	66511	66567	57	\$35,780.38
6/3/11 Payroll				\$183,690.68
Total				\$419,725.35

The check register of 5/27/11 ended with check #66432.

Wires issued, and a brief description of the expenditure:

Date	Issued to:	Dept.	Purpose	Amount
6/7/11	PERS Payment	CM	CALPERS - Payroll Contr. for 6/3/11 payroll	\$46,271.51

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

Check	Issued to:	Dept.	Purpose	Amount
66435	Amer Red Cross	CM	Pac Cove Flood Response Assistance	\$32,553.00
66443	Biggs Cardosa Associates	PW	Rispin Hazard Elimination Project	\$10,565.84
66447	CalPERS Health Ins	CM	Employee Health Ins, Employee funded	\$52,247.50
66451	Design, Community & Environ.	CD	Gen Plan & Cap Mall Revisioning	\$35,046.97

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

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

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

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

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

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

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

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

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

- Triple flip delay of Sales Tax from monthly to December and April (~\$500,000/2x year)
- Worker’s Compensation premiums are paid annually in July (\$473,220)
- Self Insurance/Liability is an annual payment due in July (\$52,270)
- Police Communication JPA annual payment (\$459,500), paid quarterly

As of 6/15/11 the total cash available is \$3,727,701. The General Operating Fund has a cash balance of \$1,174,558. Internal Service Funds (#2210 through #2214) were created for City budget purposes and are reclassified for financial reporting into the General Fund. The Compensated Absences Fund (#2216) has a positive cash balance of \$107,501. The Capital Improvement Projects has a positive cash balance of \$1,389,204. By Council direction the Emergency Reserves Fund (#1020) may not participate in cash loans; the Emergency Reserves Fund has a fund balance of \$336,359.

For cash flow purposes these funds are available to the General Fund. A consolidation of these cash balances results in a cash position of \$3,727,701.



The following table shows the funds that are consolidated:

**CASH POSITION - CITY OF CAPITOLA 6/15/11**

	<u>Net Balance</u>
General Fund	1,174,558
Worker's Comp. Ins. Fund	56,529
Self Insurance Liability Fund	248,502
Stores Fund	13,547
Information Technology Fund	153,824
Equipment Replacement	307,538
Compensated Absences Fund	107,501
Contingency Reserve Fund	-
Public Employee Retirement - PERS	276,242
Open Space Fund	256
Capital Improvement Projects	1,389,204
<b>TOTAL GENERAL FUND &amp; COUNCIL DESIGNATED FUNDS</b>	<b><u>3,727,701</u></b>

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

To resolve this cash flow issue, in July of this fiscal year a \$1,247,152 loan from Contingency Reserve was transferred to the General Fund. The Contingency Reserve was established to "provide a prudent level of financial resources to protect against temporary revenue shortfalls or unanticipated operating costs, and/or to meet short-term cash flow requirements."

Although it is anticipated the Contingency Reserve loan will be sufficient to provide operational cash in the General Fund, in some fiscal years the General Fund may borrow additional funds from Internal Service Funds, particularly in November and December prior to the receipt of Property Tax revenue.

It is anticipated the Contingency Reserve loan to General Fund will be repaid by June 30, 2011.

**ATTACHMENTS**

Check Registers for June 3 and June 10, 2011.

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

**Reviewed and Forwarded  
by City Manager:**

\_\_\_\_\_

Checks dated 6/3/11 numbered 66433 to 66510 for a total of \$200,254.29 have been reviewed and authorized for distribution by the City Manager and City Treasurer.

As of 6/3/11 the unaudited cash balance is \$3,439,509

**CASH POSITION - CITY OF CAPITOLA 6/3/11**

	<u>Net Balance</u>
General Fund	875,705
Worker's Comp. Ins. Fund	56,529
Self Insurance Liability Fund	248,502
Stores Fund	13,764
Information Technology Fund	155,657
Equipment Replacement	307,538
Compensated Absences Fund	107,501
Contingency Reserve Fund	-
Public Employee Retirement - PERS	284,854
Open Space Fund	256
Capital Improvement Projects	1,389,204
<b>TOTAL GENERAL FUND &amp; COUNCIL DESIGNATED FUNDS</b>	<u><u>3,439,509</u></u>

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


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It is anticipated the Contingency Reserve loan to General Fund will be repaid by June 30, 2011.

  
 \_\_\_\_\_  
 Jamie Goldstein, City Manager

6/3/11  
 \_\_\_\_\_  
 Date

  
 \_\_\_\_\_  
 Jacques J.J. Bertrand, City Treasurer

6.13.11  
 \_\_\_\_\_  
 Date

City of Capitola  
**City Checks Issued 6/3/2011**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66433	06/03/2011	Open			A TOOL SHED	\$75.00
	Invoice		Date	Description		Amount
	769069-5		05/11/2011	Mower Rental, PW		\$75.00
66434	06/03/2011	Open			AKERS & ASSOCIATES, INC.	\$1,740.00
	Invoice		Date	Description		Amount
	0003767		05/20/2011	Pacific Cove Easement		\$1,740.00
66435	06/03/2011	Open			AMERICAN RED CROSS, SC CHAPTE	\$32,553.00
	Invoice		Date	Description		Amount
	20110526		05/26/2011	Pac Cove Flood Assistance		\$32,553.00
66436	06/03/2011	Open			ARITCHITA, WIND, C.	\$163.80
	Invoice		Date	Description		Amount
	2011-00000730		05/31/2011	Late Spring Intr.Payments		\$163.80
66437	06/03/2011	Open			ARNONE, MICHAEL	\$652.50
	Invoice		Date	Description		Amount
	201110-1		05/19/2011	Rispin Mansion Hazard Elimination Project Landscape Architect-Fund 1200, CIP		\$652.50
66438	06/03/2011	Open			AT&T/CALNET 2	\$0.40
	Invoice		Date	Description		Amount
	2344769		05/07/2011	8314640322904 close acct Fund 2211. IT		\$0.40
66439	06/03/2011	Open			B & B SMALL ENGINE REPAIR	\$205.43
	Invoice		Date	Description		Amount
	242412		05/23/2011	Trimmer head-PW		\$67.46
	242077		05/18/2011	Equipment Repair, Stihl Trimmer-PW		\$137.97
66440	06/03/2011	Open			BARTLETT, GERRY	\$1,470.30
	Invoice		Date	Description		Amount
	2011-00000732		05/31/2011	Late Spring Intr.Payments		\$1,470.30
66441	06/03/2011	Open			BETZ, SHERRI	\$3,704.61
	Invoice		Date	Description		Amount
	2011-00000733		05/31/2011	Late Spring Intr.Payments		\$3,704.61
66442	06/03/2011	Open			BIG CREEK LUMBER	\$65.70
	Invoice		Date	Description		Amount
	2949189		05/03/2011	Flume wood		\$65.70
66443	06/03/2011	Open			BIGGS CARDOSA ASSOCIATES	\$10,565.84
	Invoice		Date	Description		Amount
	58592		05/05/2011	Rispin Mansion Hazard Elimination Project		\$8,999.84
	58593		05/05/2011	Rispin Mansion Hazard Elimination Project Structural Engineering-Fund 1200, CIP		\$1,566.00
66444	06/03/2011	Open			BRESLIN-KESSLER, PAUL	\$3,718.00
	Invoice		Date	Description		Amount
	2011-00000734		05/31/2011	Late Spring Intr.Payments		\$3,718.00

City of Capitola  
**City Checks Issued 6/3/2011**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66445	06/03/2011	Open			CALIF LAW ENFORCEMENT ASSOC.	\$390.00
	Invoice		Date	Description	Amount	
	Jun11		05/17/2011	Long Term Disability Ins, PD	\$390.00	
66446	06/03/2011	Open			CALIFORNIA POLICE CHIEFS ASSOC.	\$125.00
	Invoice		Date	Description	Amount	
	1822-2011		06/01/2011	July 1, 2011 to June 30, 2012	\$125.00	
66447	06/03/2011	Open			CalPERS Health Insurance	\$52,247.50
	Invoice		Date	Description	Amount	
	0806-000Jun11		05/15/2011	Jun11 Employee Health Ins, Employee Fu	\$52,247.50	
66448	06/03/2011	Open			CAPITOLA PEACE OFFICERS ASSOC.	\$728.62
	Invoice		Date	Description	Amount	
	POA6-3-11		06/01/2011	POA Dues, Employee Funded	\$728.62	
66449	06/03/2011	Open			CHANTICLEER VET HOSPITAL	\$334.90
	Invoice		Date	Description	Amount	
	203979		03/10/2011	Animal Control Expense	\$224.20	
	203452		02/15/2011	Animal Control Expense	\$110.70	
66450	06/03/2011	Open			DAVIDSON, ANA LUCIA	\$167.70
	Invoice		Date	Description	Amount	
	2011-00000736		05/31/2011	Late Spring Intr.Payments	\$167.70	
66451	06/03/2011	Open			DESIGN, COMMUNITY & ENVIRONMEI	\$35,046.97
	Invoice		Date	Description	Amount	
	10999		04/30/2011	A - General Plan Update (Year 1 of 4)	\$13,668.94	
	10999B		05/30/2011	Green/Environment Economic Analysis	\$938.93	
	10999C		04/30/2011	41st Avenue/Capitola Mall Revisioning Stu	\$20,439.10	
				Fund 1313, Gen Plan=\$24,617.61		
				Fund 1350, CDBG Grants=\$10,429.36		
66452	06/03/2011	Open			ENTENMANN-ROVIN	\$75.82
	Invoice		Date	Description	Amount	
	70887-IN		05/10/2011	Badge 524	\$75.82	
66453	06/03/2011	Open			FAIA ARTWORKS	\$637.00
	Invoice		Date	Description	Amount	
	2011-00000731		05/31/2011	Late Spring Intr.Payments	\$637.00	
66454	06/03/2011	Open			FARWEST NURSERY	\$6.72
	Invoice		Date	Description	Amount	
	OctStmt		10/31/2010	Credit on Account	(\$2.00)	
	7703		05/19/2011	Plants	\$8.72	
66455	06/03/2011	Open			FIRST ALARM	\$195.00
	Invoice		Date	Description	Amount	
	441497		05/20/2011	Burg Alarm Monitoring, Jade St, Jun-Aug	\$195.00	

City of Capitola  
**City Checks Issued 6/3/2011**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66456	06/03/2011	Open			FITZGERALD, AIMEE	\$253.50
	Invoice		Date	Description		Amount
	2011-00000738		05/31/2011	Late Spring Intr.Payments		\$253.50
66457	06/03/2011	Open			FRANCA, CLAUDIO	\$52.00
	Invoice		Date	Description		Amount
	2011-00000739		05/31/2011	Late Spring Intr.Payments		\$52.00
66458	06/03/2011	Open			GALLI UNIFORM COMPANY	\$986.63
	Invoice		Date	Description		Amount
	17498		05/06/2011	Uniform Purchase, Watson VIP-PD		\$241.17
	17484		05/05/2011	Equipment Purch, Evans-PD		\$249.96
	17487		05/05/2011	Uniform Exp, Zamora-PD		\$229.21
	17501		05/10/2011	Uniform Exp, VIP Ginsbach-PD		\$266.29
66459	06/03/2011	Open			GEDDES, SESE EGAN	\$114.40
	Invoice		Date	Description		Amount
	2011-00000737		05/31/2011	Late Spring Intr.Payments		\$114.40
66460	06/03/2011	Open			HARRIS & ASSOCIATES	\$1,040.00
	Invoice		Date	Description		Amount
	13341		04/11/2011	Design for Cherry Street Road Improve Fund 1200, CIP		\$1,040.00
66461	06/03/2011	Open			HILL, CAROL	\$208.00
	Invoice		Date	Description		Amount
	2011-00000740		05/31/2011	Late Spring Intr.Payments		\$208.00
66462	06/03/2011	Open			HO KUK MU SUL CORPORATION	\$302.90
	Invoice		Date	Description		Amount
	2011-00000735		05/31/2011	Late Spring Intr.Payments		\$302.90
66463	06/03/2011	Open			HOSE SHOP	\$395.86
	Invoice		Date	Description		Amount
	338453		05/16/2011	Auto parts-Beach Rake		\$395.86
66464	06/03/2011	Open			HOWARD, CHARLIE	\$1,390.00
	Invoice		Date	Description		Amount
	05/16-05/20/11		05/30/2011	FY 10/11 In-House Mechanic		\$700.00
	05/23-05/27/11A		05/30/2011	FY 10/11 In-House Mechanic		\$570.00
	05/23-05/27/11B		05/30/2011	In-House Mechanic		\$120.00
66465	06/03/2011	Open			HOWELLS, NANCY	\$196.30
	Invoice		Date	Description		Amount
	2011-00000741		05/31/2011	Late Spring Intr.Payments		\$196.30
66466	06/03/2011	Open			HUB INTERNATIONAL OF CA INS SVC	\$226.23
	Invoice		Date	Description		Amount
	2011-00000725		05/27/2011	Facility Rental Insurance		\$226.23
66467	06/03/2011	Open			ICMA RETIREMENT TRUST 457	\$6,104.01
	Invoice		Date	Description		Amount
	ICMA6-3-11		06/01/2011	Retirement Plan Contr, Employee Funded		\$6,104.01

City of Capitola  
**City Checks Issued 6/3/2011**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66468	06/03/2011	Open			INK, BRUCE	\$617.50
	Invoice		Date	Description		Amount
	2011-00000742		05/31/2011	Late Spring Intr.Payments		\$617.50
66469	06/03/2011	Open			JOHANNA, ANOUK	\$218.40
	Invoice		Date	Description		Amount
	2011-00000743		05/31/2011	Late Spring Intr.Payments		\$218.40
66470	06/03/2011	Open			JOHNNY FABULOUS	\$400.00
	Invoice		Date	Description		Amount
	031611		03/16/2011	June 5 Music at the Beach		\$400.00
66471	06/03/2011	Open			JOHNSTON, DAVID, L.	\$80.60
	Invoice		Date	Description		Amount
	2011-00000744		05/31/2011	Late Spring Intr.Payments		\$80.60
66472	06/03/2011	Open			KAPLAN, PHIL	\$586.95
	Invoice		Date	Description		Amount
	2011-00000757		05/31/2011	Late Spring Intr.Payments		\$586.95
66473	06/03/2011	Open			KINNAMON, LORRAINE	\$229.45
	Invoice		Date	Description		Amount
	2011-00000746		05/31/2011	Late Spring Intr.Payments		\$229.45
66474	06/03/2011	Open			LIFESPORT MEDICINE	\$203.00
	Invoice		Date	Description		Amount
	WEADA85591		05/04/2011	Medical Evaluation, PD New Hire		\$203.00
66475	06/03/2011	Open			LLOYD'S TIRE SERVICE INC.	\$69.38
	Invoice		Date	Description		Amount
	208824		05/19/2011	Flat Repair		\$69.38
66476	06/03/2011	Open			MARRUJO, SANDY	\$160.55
	Invoice		Date	Description		Amount
	2011-00000747		05/31/2011	Late Spring Intr.Payments		\$160.55
66477	06/03/2011	Open			MATTERN, MARK	\$572.00
	Invoice		Date	Description		Amount
	2011-00000758		05/31/2011	Late Spring Intr.Payments		\$572.00
66478	06/03/2011	Open			MCCUTCHEN, SUELLEN	\$178.75
	Invoice		Date	Description		Amount
	2011-00000748		05/31/2011	Late Spring Intr.Payments		\$178.75
66479	06/03/2011	Open			MCDOWELL, KEVIN	\$214.50
	Invoice		Date	Description		Amount
	2011-00000749		05/31/2011	Late Spring Intr.Payments		\$214.50
66480	06/03/2011	Open			MCLAUGHLIN, MARY	\$1,365.00
	Invoice		Date	Description		Amount
	2011-00000750		05/31/2011	Late Spring Intr.Payments		\$1,365.00

# City Checks Issued 6/3/2011

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66481	06/03/2011	Open			MID-COUNTY AUTO SUPPLY	\$1,415.49
	Invoice		Date	Description		Amount
	261379		05/09/2011	Auto Parts-Beach Sand Sifter		\$782.57
	261303		05/09/2011	auto parts-PD81		\$255.12
	260997		05/05/2011	Auto Parts		\$76.77
	261086		05/06/2011	auto parts		\$31.60
	260822		05/04/2011	auto parts		\$31.14
	260799		05/04/2011	auto parts		\$9.95
	261530		05/10/2011	Return Auto Parts, PD81		(\$65.55)
	260979		05/05/2011	Auto Parts, John Deere Loader		\$40.26
	261009		05/05/2011	Return Auto Parts, John Deere Loader		(\$40.26)
	263235		05/26/2011	auto parts-GEM Elec Vehicle Battery		\$293.89
66482	06/03/2011	Open			MITCHELL, JEANI	\$910.00
	Invoice		Date	Description		Amount
	2011-00000751		05/31/2011	Late Spring Intr.Payments		\$910.00
66483	06/03/2011	Open			MORRISSEY, YOSHIE	\$353.60
	Invoice		Date	Description		Amount
	2011-00000752		05/31/2011	Late Spring Intr.Payments		\$353.60
66484	06/03/2011	Open			MURPHY, COLLEEN, ELLEN	\$415.35
	Invoice		Date	Description		Amount
	2011-00000753		05/31/2011	Late Spring Intr.Payments		\$415.35
66485	06/03/2011	Open			MUSICMANN/JAZZICAL RECORDINGS	\$400.00
	Invoice		Date	Description		Amount
	143		03/09/2011	Martan Mann Quartet Performance, Jun 19		\$400.00
66486	06/03/2011	Open			NELLA OIL COMPANY	\$2,501.75
	Invoice		Date	Description		Amount
	11-607676		05/19/2011	519 Gal Gas, 100 Gal Diesel		\$2,501.75
66487	06/03/2011	Open			NORTH BAY FORD	\$26.13
	Invoice		Date	Description		Amount
	220592		05/18/2011	Auto parts		\$26.13
66488	06/03/2011	Open			OFFUTT, MELISSA	\$1,016.60
	Invoice		Date	Description		Amount
	2011-00000754		05/31/2011	Late Spring Intr.Payments		\$1,016.60
66489	06/03/2011	Open			ORCHARD SUPPLY HARDWARE	\$138.22
	Invoice		Date	Description		Amount
	6014-4791566		05/16/2011	Supplies - REC		\$45.55
	6005-4763076		05/16/2011	Wire brush		\$7.64
	6007-36489		05/16/2011	Concrete mix		\$12.01
	6014-4761739		05/17/2011	Nuts & bolts		\$73.02

# City Checks Issued 6/3/2011

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66490	06/03/2011	Open			PALACE ART & OFFICE SUPPLIES	\$625.34
	Invoice		Date	Description		Amount
	905152		05/11/2011	Office supplies-PD		\$161.27
	905023		05/11/2011	office supplies-PD		\$8.58
	905575		05/13/2011	Paper-PD		\$45.78
	905707		05/16/2011	Binders-PD		\$35.10
	905671		05/16/2011	Office Supplies, City Hall-Fund 2210, Store		\$9.75
	906107		05/18/2011	Office Supplies, City Hall-Fund 2210, Store		\$147.45
	904532		05/09/2011	Office Supplies, City Hall-Fund 2210, Store		\$217.41
66491	06/03/2011	Open			PAST PERFECT SOFTWARE INC.	\$344.00
	Invoice		Date	Description		Amount
	2011-34339		04/29/2011	Annual Software Support Renewal Fund 2211, IT		\$344.00
66492	06/03/2011	Open			PHIL ALLEGRI ELECTRIC, INC.	\$2,822.97
	Invoice		Date	Description		Amount
	15979		05/16/2011	Repair street lights (5) - flood		\$2,822.97
66493	06/03/2011	Open			POT, TRENISE	\$1,109.55
	Invoice		Date	Description		Amount
	2011-00000755		05/31/2011	Late Spring Intr.Payments		\$1,109.55
66494	06/03/2011	Open			RobNetty Equipment Repair, Inc.	\$375.00
	Invoice		Date	Description		Amount
	1919		05/07/2011	Opacity test 1990 Ford		\$75.00
	1920		05/07/2011	Opacity Test 2008 Ford		\$75.00
	1921		05/07/2011	Opacity Test 2007 Cummins		\$75.00
	1922		05/07/2011	Opacity Test 1999 Cummins		\$75.00
	1923		05/07/2011	Opacity Test 2000 John Deere		\$75.00
66495	06/03/2011	Open			SCC INFORMATION SERVICES	\$502.78
	Invoice		Date	Description		Amount
	SCAN May 2011		05/09/2011	SCAN Charges, May 2011-PD		\$502.78
66496	06/03/2011	Open			SANTA CRUZ FIRE EQUIPMENT CO.	\$156.68
	Invoice		Date	Description		Amount
	82920		05/05/2011	Fire service-Fund 1311, Wharf		\$156.68
66497	06/03/2011	Open			SANTA CRUZ MOUNTAIN ART CENTER	\$200.00
	Invoice		Date	Description		Amount
	SCMAC		05/31/2011	2011 All-Museum Brochure		\$200.00
66498	06/03/2011	Open			SOQUEL CREEK WATER DISTRICT	\$3,927.19
	Invoice		Date	Description		Amount
	Mar-May2011		05/17/2011	Semi-monthly irrigation water		\$3,927.19
66499	06/03/2011	Open			STEVENS, CLAUDIA	\$209.30
	Invoice		Date	Description		Amount
	2011-00000756		05/31/2011	Late Spring Intr.Payments		\$209.30



# City Checks Issued 6/3/2011

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66500	06/03/2011	Open			THACHER & THOMPSON ARCHITECTS	\$9,243.70
	Invoice		Date	Description	Amount	
	8244		05/10/2011	Rispin Mansion Hazard Elimination Project	\$8,407.50	
	8244-2		05/10/2011	Rispin historic design services Fund 1200, CIP	\$836.20	
66501	06/03/2011	Open			THE CIMA COMPANIES, INC.	\$1,783.77
	Invoice		Date	Description	Amount	
	CACAP12-11		03/01/2011	Volunteer Insurance FY11/12 Fund 2213, Self Ins.	\$1,783.77	
66502	06/03/2011	Open			THE INTERNET CONNECTION INC. - G	\$150.00
	Invoice		Date	Description	Amount	
	3917-15457		06/01/2011	Jun 2011 Website Hosting	\$150.00	
66503	06/03/2011	Open			The URBAN EXPLORER, Inc.	\$600.00
	Invoice		Date	Description	Amount	
	050511		05/05/2011	10/11 GIS Annual License & Maintenance	\$600.00	
66504	06/03/2011	Open			THOMAS, CAROLYN, E.	\$1,801.47
	Invoice		Date	Description	Amount	
	Conf-May23		05/23/2011	Chaplain Tng, May 23-25, PD	\$1,801.47	
66505	06/03/2011	Open			TLC ADMINISTRATORS, INC.	\$6,269.61
	Invoice		Date	Description	Amount	
	93030-Jun2011		06/01/2011	Jun 2011 Vision & Dental Ins, Employee F	\$6,269.61	
66506	06/03/2011	Open			UNION BANK OF CALIFORNIA	\$654.38
	Invoice		Date	Description	Amount	
	PARS6-3-11		06/01/2011	PARS Contr - Employee funded	\$654.38	
66507	06/03/2011	Open			ZEP SALES & SERVICE	\$565.69
	Invoice		Date	Description	Amount	
	53424341		05/04/2011	Cleaning supplies	\$565.69	
66508	06/03/2011	Open			Khosrowpanah, Sharareh	\$100.00
	Invoice		Date	Description	Amount	
	2000879-002		05/24/2011	Facility Rental Deposit Refund	\$100.00	
66509	06/03/2011	Open			Malvini, Marion	\$500.00
	Invoice		Date	Description	Amount	
	2011-00000729		05/27/2011	Tree Permit #11-027 refund deposit	\$500.00	
66510	06/03/2011	Open			Martinez, Rosa	\$100.00
	Invoice		Date	Description	Amount	
	2000880-002		05/24/2011	Facility Rental Deposit Refund	\$100.00	
Check Totals:				Count	78	Total \$200,254.29

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 Jamie Goldstein, City Manager

6/10/11  
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 Date

  
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 Jacques J.J. Bertrand, City Treasurer

6.17.11  
 \_\_\_\_\_  
 Date

City of Capitola  
**Payment Register**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66511	06/10/2011 Invoice 461109	Open	Date 05/20/2011	Description May11 Employee Health Ins Employee Funded	AFLAC	\$681.04
66512	06/10/2011 Invoice 511-02	Open	Date 06/07/2011	Description Soquel Creek Fish Monitoring	ALLEY, DONALD	\$5,678.70
66513	06/10/2011 Invoice 42301	Open	Date 06/01/2011	Description Keys, PD	ALLSAFE LOCK COMPANY	\$29.70
66514	06/10/2011 Invoice 2363694	Open	Date 05/13/2011	Description Telephone Service, May 2011	AT&T/MCI	\$1,960.30
66515	06/10/2011 Invoice 37454 37453	Open	Date 05/25/2011 05/25/2011	Description May 2011 Pac Cove meter reading May 2011 Wharf meter reading	AUTOMATED TEST ASSOCIATES	\$92.00
66516	06/10/2011 Invoice 242937	Open	Date 05/31/2011	Description Mower blades	B & B SMALL ENGINE REPAIR	\$26.88
66517	06/10/2011 Invoice 343	Open	Date 05/23/2011	Description New Hire Exam-PD	BAY AREA POLYGRAPH	\$200.00
66518	06/10/2011 Invoice 2011-00000802	Open	Date 06/03/2011	Description Instructor Payments-Final LS 2011	BETZ, SHERRI	\$4.29
66519	06/10/2011 Invoice 2011-00000809	Open	Date 06/07/2011	Description Sports Officials May 14 to June 8, 2011	BEYERS, FRED, C	\$198.00
66520	06/10/2011 Invoice 6603	Open	Date 06/02/2011	Description Engineering Svc, Slope Failure, Pac Cove	BOWMAN & WILLIAMS, INC.	\$1,346.25
66521	06/10/2011 Invoice 2011-00000812	Open	Date 06/07/2011	Description Private Tennis Lessons	BRESLIN-KESSLER, PAUL	\$877.50
66522	06/10/2011 Invoice 2011-00000811	Open	Date 06/07/2011	Description Sports Officials May 14 to June 8, 2011	BUMGARNER, ERIC, D	\$135.00

City of Capitola  
**Payment Register**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66523	06/10/2011	Open			CADILLAC DESIGNS	\$1,251.30
	Invoice		Date	Description		Amount
	1549		06/01/2011	Twilight & Art and Music banners		\$1,251.30
66524	06/10/2011	Open			CLARK, DAVE	\$368.55
	Invoice		Date	Description		Amount
	2011-00000799		06/03/2011	Instructor Payments-Final LS 2011		\$368.55
66525	06/10/2011	Open			CLEAN SOURCE	\$1,149.52
	Invoice		Date	Description		Amount
	1204587		05/20/2011	Cleaning supplies		\$911.34
	1204587-01		05/24/2011	Wipers		\$238.18
66526	06/10/2011	Open			COMMUNICATION SERVICE CORP.	\$321.10
	Invoice		Date	Description		Amount
	211-249		05/26/2011	Patch Panel Installation		\$321.10
66527	06/10/2011	Open			CRUZIO THE INTERNET STORE INC.	\$39.95
	Invoice		Date	Description		Amount
	28750-18		06/02/2011	Webhosting 06/23/11 to 07/22/11		\$39.95
66528	06/10/2011	Open			DE LAGE LANDEN FINANCIAL SVC, IN	\$337.16
	Invoice		Date	Description		Amount
	9706970		05/27/2011	Sharp/MX7001N copier contract		\$337.16
66529	06/10/2011	Open			ELEVATOR SERVICE COMPANY, INC.	\$3,425.00
	Invoice		Date	Description		Amount
	4679		05/16/2011	Flood Water Removal from City Hall Eleva		\$3,260.00
	4841		06/01/2011	Quarterly lube and inspection		\$165.00
66530	06/10/2011	Open			ENTENMANN-ROVIN	\$140.13
	Invoice		Date	Description		Amount
	70947-IN		05/12/2011	Badge 518 and 503		\$140.13
66531	06/10/2011	Open			EXTRA SPACE STORAGE OF SC INC	\$262.00
	Invoice		Date	Description		Amount
	2522221-Jun2011		05/27/2011	Evidence storage Space-PD		\$262.00
66532	06/10/2011	Open			FIRST ALARM	\$17.48
	Invoice		Date	Description		Amount
	443193		05/31/2011	Battery Replacement, Motion Sensor		\$17.48
66533	06/10/2011	Open			GALLI UNIFORM COMPANY	\$150.60
	Invoice		Date	Description		Amount
	17499		05/06/2011	Uniform Exp, Lifeguard, Mitchell		\$150.60

City of Capitola  
**Payment Register**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66534	06/10/2011	Open			HOUSING AUTHORITY OF THE COUN	\$1,489.68
	Invoice		Date	Description		Amount
	11-09 CFTHB		04/06/2011	D 2010 First Time Home Buyer Program		\$140.00
	11-8CREHAB		03/10/2011	C 2010 Housing Rehabilitation Program		\$273.31
	11-9CREHAB		04/06/2011	C 2010 Housing Rehabilitation Program		\$182.00
	11-10 CREHAB		05/06/2011	C 2010 Housing Rehabilitation Program		\$894.37
66535	06/10/2011	Open			ICMA	\$200.00
	Invoice		Date	Description		Amount
	424854		05/02/2011	FY11/12 Membership-Murphy		\$200.00
66536	06/10/2011	Open			ICMA RETIREMENT TRUST 457	\$1,435.47
	Invoice		Date	Description		Amount
	101301600		06/07/2011	Correction to prior period reports		\$1,435.47
66537	06/10/2011	Open			INTERNAT'L INST. OF MUNI CLERKS	\$135.00
	Invoice		Date	Description		Amount
	4327-11/12		04/06/2011	Annual Membership thru 6/2012-Greening		\$135.00
66538	06/10/2011	Open			KRAFT, MARC	\$343.20
	Invoice		Date	Description		Amount
	2011-00000801		06/03/2011	Instructor Payments-Final LS 2011		\$343.20
66539	06/10/2011	Open			LABOR READY SOUTHWEST INC.	\$942.59
	Invoice		Date	Description		Amount
	56661559		05/20/2011	FY 10/11 Temporary Staff-PW		\$942.59
66540	06/10/2011	Open			LUICH, JAY	\$44.00
	Invoice		Date	Description		Amount
	2011-00000816		06/07/2011	Sports Officials May 14 to June 8, 2011		\$44.00
66541	06/10/2011	Open			MID-COUNTY AUTO SUPPLY	\$707.87
	Invoice		Date	Description		Amount
	261847		05/13/2011	Auto Parts-Beach Sand Sifter		\$14.70
	261741		05/12/2011	Auto Parts		\$316.78
	261789		05/12/2011	Auto Parts-Beach Sand Sifter		\$7.82
	262100		05/16/2011	atuo parts-Beach Rake		\$269.80
	262237		05/17/2011	auto parts-Beach Sand Sifter		\$44.46
	263622		05/31/2011	auto parts		\$54.31
66542	06/10/2011	Open			MILES, MITCHELL, A.	\$1,300.00
	Invoice		Date	Description		Amount
	2011-00000800		06/03/2011	Instructor Payments-Final LS 2011		\$1,300.00

City of Capitola  
**Payment Register**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66543	06/10/2011	Open			MISSION LINEN SUPPLY	\$749.52
	Invoice		Date	Description		Amount
	May2011		06/01/2011	May2011 Mat Cleaning		\$622.44
	159038-Apr, May		06/01/2011	PD Mats, Apr and May 2011		\$247.68
	Apr/MayCredit		06/01/2011	Credit for change in mat config. due to floo		(\$120.60)
66544	06/10/2011	Open			MITCHELL, ERIC	\$250.00
	Invoice		Date	Description		Amount
	EMTRefresh		06/06/2011	EMT refresher course reimb		\$250.00
66545	06/10/2011	Open			MONTEREY BAY SYSTEMS	\$250.00
	Invoice		Date	Description		Amount
	102000		03/31/2011	Relocate PD Copier due to flood		\$250.00
66546	06/10/2011	Open			NELLA OIL COMPANY	\$1,024.40
	Invoice		Date	Description		Amount
	11-609799		05/24/2011	250 Gal Diesel		\$1,024.40
66547	06/10/2011	Open			NORTH BAY FORD	\$26.13
	Invoice		Date	Description		Amount
	052511		05/25/2011	Auto parts-F-150 PU		\$26.13
66548	06/10/2011	Open			ORCHARD SUPPLY HARDWARE	\$234.56
	Invoice		Date	Description		Amount
	6008-1089451		05/18/2011	Misc.		\$19.39
	6011-105226		05/23/2011	Grab bar		\$27.30
	6014-32861		05/23/2011	Tools - David		\$69.89
	6010-3522579		05/24/2011	Square		\$1.08
	6009-2097547		05/25/2011	Misc.		\$24.62
	2011-00000727		05/26/2011	Gloves-Rec		\$66.60
	6013-9186673		05/26/2011	Misc.		\$15.26
	3370		05/18/2011	Sports Supplies		\$10.42
66549	06/10/2011	Open			PALACE ART & OFFICE SUPPLIES	\$827.67
	Invoice		Date	Description		Amount
	906208		05/19/2011	Office Supplies		\$16.70
	906500		05/20/2011	Paper-PD		\$45.78
	906735		05/24/2011	Office supplies-PD		\$85.22
	906941		05/24/2011	Batteries		\$14.85
	14229-0		05/24/2011	2 Desks, Rec		\$325.57
	8627718		05/24/2011	Office Supplies, Museum		\$100.26
	C-903873-2		05/26/2011	Returned Office Supplies, PD		(\$27.52)
	907660		05/31/2011	Office Supplies, City hall		\$200.10
	8623126		05/12/2011	Museum Supplies		\$66.71

City of Capitola  
**Payment Register**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66550	06/10/2011	Open			PET PALS DISCOUNT PET SUPPLIES	\$294.01
	Invoice		Date	Description		Amount
	00002-May2011		05/31/2011	K-9 supplies, Mar-May2011		\$294.01
66551	06/10/2011	Open			PETERSON CATERPILLAR	\$290.38
	Invoice		Date	Description		Amount
	PC080104638		05/24/2011	Parts for Tractor/Loader		\$290.38
66552	06/10/2011	Open			PHOENIX GROUP INFORMATION SYS	\$756.98
	Invoice		Date	Description		Amount
	42011070		05/11/2011	April 2011 Citations		\$756.98
66553	06/10/2011	Open			PITNEY BOWES INC.	\$147.49
	Invoice		Date	Description		Amount
	928830		05/16/2011	Rental contract-Postage Meter, Rec		\$147.49
66554	06/10/2011	Open			ProBUILD COMPANY LLC	\$32.44
	Invoice		Date	Description		Amount
	5036881		05/22/2011	Plants		\$32.44
66555	06/10/2011	Open			QUARTARARO, ROD, V.	\$132.00
	Invoice		Date	Description		Amount
	2011-00000810		06/07/2011	Sports Officials May 14 to June 8, 2011		\$132.00
66556	06/10/2011	Open			RBF CONSULTING	\$428.45
	Invoice		Date	Description		Amount
	11040859		05/27/2011	Parking and Congestion Traffic Analysis		\$428.45
66557	06/10/2011	Open			REED, DANIEL, H.	\$165.00
	Invoice		Date	Description		Amount
	2011-00000813		06/07/2011	Sports Officials May 14 to June 8, 2011		\$165.00
66558	06/10/2011	Open			REPUBLIC ITS INC.	\$1,240.75
	Invoice		Date	Description		Amount
	110587-110588		05/12/2011	April 2011 Signal Maintenance		\$1,240.75
66559	06/10/2011	Open			ROBERT DEACON	\$2,010.13
	Invoice		Date	Description		Amount
	June2011		06/03/2011	June 2011 Rent-PD Annex		\$2,010.13
66560	06/10/2011	Open			RODGERS, PETER, A	\$44.00
	Invoice		Date	Description		Amount
	2011-00000815		06/07/2011	Sports Officials May 14 to June 8, 2011		\$44.00
66561	06/10/2011	Open			SCC SANITATION DISTRICT	\$213.21
	Invoice		Date	Description		Amount
	052611		05/26/2011	Special Discharge Permit Renewal		\$213.21

City of Capitola  
**Payment Register**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66562	06/10/2011	Open			THILL, WENDY	\$120.00
	Invoice		Date	Description		Amount
	2011-00000817		06/07/2011	Sports Officials May 14 to June 8, 2011		\$120.00
66563	06/10/2011	Open			TLC ADMINISTRATORS, INC.	\$175.00
	Invoice		Date	Description		Amount
	14024		06/03/2011	Admin Fee, Flex Spending Plan		\$175.00
66564	06/10/2011	Open			WALZ, CODY	\$33.00
	Invoice		Date	Description		Amount
	2011-00000814		06/07/2011	Sports Officials May 14 to June 8, 2011		\$33.00
66565	06/10/2011	Open			Brookvale Terrace Property Owner's Ass	\$500.00
	Invoice		Date	Description		Amount
	2011-00000805		06/06/2011	Tree Permit #11-016 Deposit Refund		\$500.00
66566	06/10/2011	Open			Brookvale Terrace Property Owner's Ass	\$500.00
	Invoice		Date	Description		Amount
	2011-00000806		06/06/2011	Tree Permit #11-056 Deposit Refund		\$500.00
66567	06/10/2011	Open			Uchiyama, Sue	\$45.00
	Invoice		Date	Description		Amount
	2000896-002		06/06/2011	Refund, Rec		\$45.00
Check Totals:				Count	57	Total \$35,780.38





# CAPITOLA REDEVELOPMENT AGENCY AGENDA REPORT

## MEETING OF JUNE 23, 2011

FROM: FINANCE DEPARTMENT  
DATE: June 15, 2011  
SUBJECT: APPROVAL OF RDA CHECK REGISTER REPORT

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**Recommended Action:** By motion and roll call vote, that the RDA Board approve the Check Register Report dated June 10, 2011 as submitted.

---

### DISCUSSION

The attached Check Register for the referenced date:

Date	Starting Check #	Ending Check #	Total Checks	Amount
6/10/11	2956	2963	8	\$39,586.07

The prior RDA check register report of May 27, 2011 ended with check number 2955.

The following check was issued for more than \$10,000.00:

Check	Issued to:	Dept.	Purpose	Amount
2958	Harris & Associates	PW	Clares St Traffic Calming Project	\$23,905.00

As of 6/15/11 the unaudited cash balance in the RDA account is \$3,534,154.88 allocated as follows:

RDA Operating Fund	\$2,638,435.51
RDA Low/Mod Housing Fund	\$895,719.37

### ATTACHMENTS

Check Register Report dated:  
June 10, 2011

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

Reviewed and Forwarded  
By Executive Director:

City of Capitola  
**Payment Register**

RDA Checks Issued June 10, 2011


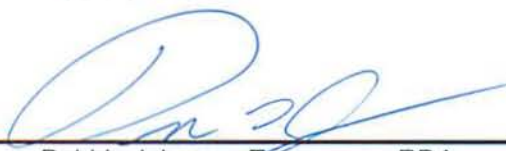
Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
2956	06/10/2011 Invoice 4763-LDF	Open	Date 03/07/2011	Description Legal Defense Fund Assessment	CALIFORNIA REDEVELOPMENT ASSC	\$200.00
2957	06/10/2011 Invoice	Voided	Incorrect Amount Date	06/10/2011 Description	GOLDFARB & LIPMAN, LLP	\$0.00
2958	06/10/2011 Invoice 13593	Open	Date 05/11/2011	Description Clares Street Traffic Calming Project	HARRIS & ASSOCIATES	\$23,905.00
2959	06/10/2011 Invoice 11-08CSD 11-8CGPS	Open	Date 03/08/2011 03/08/2011	Description 2011 Security Deposit Program 2011 General Professional Services	HOUSING AUTHORITY OF THE COUN'	\$5,510.00
2960	06/10/2011 Invoice R3	Open	Date 06/01/2011	Description Rispin Mansion Building Inspections	KOSTELEK, DANIEL	\$1,150.00
2961	06/10/2011 Invoice 2010 Q3 & Q4 2011 Q1 & Q2	Open	Date 11/30/2010 03/24/2011	Description Rent Subsidies Rent Subsidies	LOMA VISTA ESTATES OWNERS ASS	\$3,937.20
2962	06/10/2011 Invoice 4007102-052611	Open	Date 05/26/2011	Description Legal Liner, City Council Public Hearing	SANTA CRUZ SENTINEL	\$242.87
2963	06/10/2011 Invoice 101554B 101554A	Open	Date 05/18/2011 05/18/2011	Description RDA legal services, non-housing RDA legal services, housing	GOLDFARB & LIPMAN, LLP	\$4,641.00
Check Totals:			Count	8	Total	\$39,586.07

The above listed checks have been printed and released under the RDA Executive Director's approval. Included are checks numbered 2956 through 2963 for \$39,586.07.

These checks has been reviewed and authorized for distribution.

The unaudited cash balance in the RDA account as of 6/10/11 is \$3,627,968.81

RDA Operating Fund	\$2,745,692.51
Low/Mod Housing Fund	\$882,276.30

	6/10/11		6/10/11
Jamie Goldstein, City Manager	Date	Debbie Johnson, Treasurer - RDA	Date



Item #: **3.B.**

# CITY COUNCIL/REDEVELOPMENT AGENCY AGENDA REPORT

## MEETING OF JUNE 23, 2011

FROM: OFFICE OF THE CITY CLERK/REDEVELOPMENT AGENCY SECRETARY

DATE: JUNE 16, 2011

SUBJECT: **CAPITOLA CITY COUNCIL/REDEVELOPMENT AGENCY MINUTE APPROVAL:**  
MINUTES OF THE REGULAR JOINT MEETINGS OF THE CITY COUNCIL/  
REDEVELOPMENT AGENCY OF MAY 26 AND JUNE 9, 2011, AND THE SPECIAL  
JOINT BUDGET STUDY SESSION OF JUNE 2, 2011

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**Recommended Action:** By motion, that the City Council/Redevelopment Agency Directors approve the subject minutes as submitted.

---

### **DISCUSSION**

Attached for City Council/Redevelopment Agency review and approval are the subject minutes.

### **ATTACHMENTS**

Minutes of May 26, June 2 and June 9, 2011

**Report Prepared By:** Pamela Greeninger, MMC  
City Clerk/RDA Secretary

**Reviewed and Forwarded by**  
**City Manager/Executive Director:** \_\_\_\_\_

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

May 26, 2011  
Capitola, California

**MINUTES OF A REGULAR JOINT MEETING**

**5:30 P.M - CLOSED SESSION - CITY MANAGER'S OFFICE**

At 5:30 p.m. in the City Hall Council Chambers, Mayor/Chairperson Norton noted that all Council Members/Redevelopment Agency Directors were present. He made an announcement regarding the items to be discussed in Closed Session, as follows:

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

Surf and Sand, LLC vs. City of Capitola, et al. (Surf & Sand Mobile Home Park)  
[Superior Court of the State of California for County of Santa Cruz, Case #CV 167716]  
Surf and Sand, LLC vs. City of Capitola, et al. (Surf & Sand Mobile Home Park)  
[U.S. District Court N.D., Case No. C09-05542 RS (Judge Richard Seeborg)]  
Los Altos/El Granada Investors vs. City of Capitola, et al. (Castle Mobile Estates)  
[U.S. District Court N.D., Case No. CV 04-05138 JF (Judge Jeremy Fogel)]

**CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to subdivision (b) of Government Code §54956.9:  
One Case: Vieira Enterprises, Inc. vs. City of Capitola (Cabrillo Mobile Estates)  
*The City is in receipt of a December 30, 2010, Fair Return rent increase application for Cabrillo Mobilehome Park, which claims that if it is not granted in its entirety, the City will be liable for the unconstitutional taking of Mr. Vieira's property and further claims that the City's past enforcement of its rent control ordinance has already functioned to effect such a taking.*

Initiation of litigation pursuant to subdivision (c) of Government Code §54956.9: One Case.

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Titles: City Manager and City Attorney

**LIABILITY CLAIMS** (Government Code §54956.95)

Claimant: Veronica Shepardson  
Claimant: Tracey Conklin  
Claimant: Jeanne Roddy  
Claimant: Barbara & Mark Vasko  
Claimant: Kathleen S. Sullivan  
Claimant: Sidney C. Jackson  
Claimant: Larry, Amber & Natalie Machado  
Claimant: Larry Machado, Carol Lerno, Marlene Cooper, Nancy Petersen  
Claimant: William & Lee Ann Gilbert  
Claimant: Alan & Donna Fontaine  
Agency claimed against: City of Capitola

Mayor/Chairperson Norton noted that there was no one in the audience; therefore, the City Council/Redevelopment Agency recessed at 5:31 p.m. to the Closed Session in the City Manager's Office.

**REGULAR JOINT MEETING OF THE CAPITOLA CITY COUNCIL/REDEVELOPMENT AGENCY**

Mayor/Chairperson Norton called the Regular Joint Meeting of the Capitola City Council/Redevelopment Agency to order at 7:09 p.m. on Thursday, May 26, 2011, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

**ROLL CALL AND PLEDGE OF ALLEGIANCE**

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

**ABSENT:** None

**OTHERS:** City Treasurer Jacques Bertrand and Redevelopment Agency Treasurer Debbie Johnson

**STAFF:** City Manager/Executive Director Jamie Goldstein, City Attorney/General Counsel John G. Barisone, Community Development Director/Deputy Executive Director Derek Johnson, Chief of Police Michael Card, Public Works Director Steve Jesberg, Assistant to the City Manager Lisa Murphy, and City Clerk/Secretary Pamela Greeninger

**\* \* \* PRESENTATIONS \* \* \***

**Recognition of Public Works Department Employees  
for their Exemplary Service during the March Floods: [630-20]**

**Ed Morrison, Eddie Ray Garcia,  
Albert De La Torre, Frank DeFalco, Lance Elliot, Matt Kotila,  
David Nakamoto, Cary Oyama, Mark Sessions, and Chris Tryde**

Public Works Director Jesberg first introduced Frank DeFalco, the department's newest employee. He said Frank has been working as a seasonal worker for the past several summers and was recently hired full-time as a Maintenance I worker.

He then called each of the public works department employees forward to receive his Recognition of Excellence Certificate. When announcing Matt Kotila, Public Works Director Jesberg informed the Council that Matt was recently promoted to the new Maintenance Worker III position, and today was his birthday.

Mayor Norton wished Matt a happy birthday and thanked all of the public works employees for working above and beyond the call of duty to protect lives and property in the City of Capitola during the March floods. He announced that everyone in this group will receive 8 hours of personal time off for their exemplary services.

**Presentation by Paul Michel, Superintendent  
of the Monterey Bay National Marine Sanctuary [430-80]**

Paul Michel provided a history and overview of the Monterey Bay National Marine Sanctuary, which encompasses over 137,000 square miles with over 6,000 square miles in the Monterey Bay. He said one of the biggest challenges is educating the public on the sanctuary, and an exploration center is being built in the City of Santa Cruz to provide education and outreach regarding the sanctuary's ecosystem. The center should be completed in December of this year, with a grand opening to occur in May of next year. Following his presentation, Mr. Michel responded to questions of council members. Mayor Norton thank him for his presentation.

**Presentation by Erich Friedrich, Transportation Planner  
for Santa Cruz METRO, regarding Service Reductions [1170-10]**

Mayor Norton noted that Erich Friedrich was unable to attend tonight's meeting. Utilizing a PowerPoint Presentation, Ciro Aguirre, Operations Manager for Santa Cruz METRO, discussed the financial challenges facing the Santa Cruz Metropolitan Transit District and ways the district is trying to balance its budget. Schedule analyst Carolyn Derwing presented an abbreviated version of the proposed changes in the Mid-County area that would affect residents in Capitola and responded to questions of council members.

Mayor Norton thank him for his presentation.

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

City Attorney Barisone reported on the items discussed in closed session as follows:

The Council had a conference with City Manager Goldstein and City Attorney Barisone pertaining to the two Surf and Sand LLC lawsuits concerning the park subdivision and park closure.

City Attorney Barisone said he reported to the Council that the state court lawsuit regarding the park subdivision has been dismissed, and they are waiting to hear from the City's special legal counsel in San Diego as to the dismissal status of the federal lawsuit regarding the park closure. No reportable action was taken in closed session.

The City Council had a discussion with its City Manager and the City Attorney pertaining to pending litigation concerning Castle Mobile Home Estates (Los Altos/El Granada Investors v. City of Capitola) relating to settlement negotiations. No reportable action was taken.

City Attorney Barisone provided a status report as to the threatened lawsuit over the pending fair rate of return rent increase application from Cabrillo Mobile Home Park, but the Council took no reportable action on that matter in Closed Session.

The City Council discussed the ten liability claims as a group; since they all pertain to the Capitola floods in March. There was discussion regarding the legality of the liability aspects of those tort claims. He noted that the liability claims were also on the open session agenda and would be acted upon at that time.

City Attorney Barisone said the council also conducted a performance evaluation of the City Manager, but took no action in closed session.

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

Council Member Storey commented on the questions raised at the Budget Study Session last night pertaining to the Mobile Home Park Rental Assistance Program approved on May 12.

Community Development Director Johnson said staff has had an opportunity to listen to the audio recording regarding the Council's direction. One question had to do with the level of assistance for the emergency housing program. Staff concluded that the direction provided to staff was that there would initially be \$76,200 for that program, and that amount would go up to the full \$95,000 should the rental assistance program not utilize the full allocation. Additionally, Community Development Director Johnson said the motion did provide staff with flexibility in implementing the rental assistance program to adjust the rental assistance amounts should participation rates be lower than anticipated, with priority provided to low- and very-low income households.

Council Member Storey said that based on staff's report, he does not believe an item would need to be added to the agenda in that regard.

**B. Public Comments**

1) The following people addressed the City Council pertaining to the Referendum Petition regarding Ordinance No. 953 Amending the City's Municipal Code pertaining to Mobile Home Park Rent Stabilization that was rejected by the City. Many of the speakers discussed their personal experience circulating and collecting signatures on the petitions, and the number of residents who signed the petitions. They urged the Council to take this matter to the voters.

## 2. B. 1) ORAL COMMUNICATIONS (Continued)

Bill Newman, resident of Surf and Sand Mobile Home Park  
Nancy Brewer, resident of Surf and Sand Mobile Home Park  
Davina Baker, resident of Surf and Sand Mobile Home Park  
Shirley Hill, resident of Surf and Sand Mobile Home Park  
Lauri Beamish, resident of Surf and Sand Mobile Home Park  
Salvatore Leonardi, resident of Surf and Sand Mobile Home Park  
Heidi Hoffacker, resident of Surf and Sand Mobile Home Park  
Ron Hoffacker, Heidi's father, said he felt it was quite an achievement by the people who were gathering the signatures.

Thomas Newman, Capitola resident on Viga Court, informed the Council that he is not a resident of a mobile home park, and he signed Davina's petition.

Lauri Brewer, resident of Surf & Sand Mobile Home Park

An unidentified man commented on the efforts of the Surf & Sand Mobile Home Park residents in obtaining signatures on the referendum petition. He discussed a newspaper quote from Mayor Norton and expressed his disappointment in what the mayor said.

Following the public comments, Mayor Norton made a statement to the people who spoke regarding the referendum petition. He said the City and the City Council do not make election laws; the federal and state governments make those laws. It is the responsibility of the city to enforce those laws. Mayor Norton said the City Council did not make the decision on the petition; the decision was made based on state election law.

2) Hank Ryan spoke in support of a direct METRO bus line from Capitola to Santa Cruz, especially on the weekends. He suggested marketing money could be used to support such a line. He commented on SB 375, which requires reduction of vehicle miles traveled, and said such a shuttle between the cities's could reduce vehicle trips and driving around looking for parking.

3) Nina Beety, a resident of Monterey where SmartMeters are being deployed, discussed the possibility for individuals to delay the installation of SmartMeters by calling 866-743-0263 or 877-743-7378. People can request to be placed on a delay list for receiving a SmartMeter and to retain their analog meter. She also urged members of the public to send letters to Senator Simitian.

4) Carol Lerno, Pacific Cove Mobile Home Park resident, announced there is a correction on the agenda pertaining to Liability Claims under Closed Session and also under Consent Calendar 3.F., in that her brother's name (Larry Machado) was listed twice. It should be her name on the claims.

5) Sherry Jackson, resident of La Selva Beach, informed the Council that she called PG&E 877-743-7378 to delay having a SmartMeter installed at her residence. She urged people to be firm when they call to delay SmartMeter installation.

6) Marilyn Garrett commented on the need to protect life and property from SmartMeters, particularly at the Bay Avenue Senior Apartments and Pacific Cove Mobile Home Park. She said people are being driven from their homes after installation of SmartMeters. Ms. Garrett submitted documentation regarding SmartMeters and copies of "Connection" magazine, which has article about SmartMeters.

7) Carin Hanna, owner of the Craft Gallery, provided a status of the Village businesses. She thanked Mayor Norton for being an intermediary for the tent in the village after the flood. She wished to especially thank and recognize Peter Dwares for letting the tent be put up and the time extended for two months. It was a big help to the village businesses.

## 2. ORAL COMMUNICATIONS (Continued)

C. Staff Comments

1) Community Development Director/Deputy Executive Director Johnson informed the City Council/RDA Directors that they would be receiving a great number of documents regarding one of the public hearings on the next regular meeting agenda. He encouraged members to contact him if they have any concerns or questions regarding the documents.

2) Chief of Police Card announced there would be a Memorial Day ceremony at City Hall on Monday, May 30, at 9 a.m.

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

1) Council Member Termini asked about an incident that occurred in the City last night. Chief of Police Card informed the council that a woman got out of the passenger side of a car and jumped over the fence and fell seventy feet off the cliff.

2) Council Member Termini announced that postcards are going out to Capitola residents with information about the Twilight Concerts and other community events being held this summer.

E. Committee Appointments

**1) Appointment of Alternates to the General Plan Advisory Committee (GPAC). Staff recommendation: Council Members Harlan and Nicol to make appointments. [740-40]**

Council Members Harlan said she did not wish to appoint an alternate at this time. She would rather wait until there is need to replace the current West Capitola representative. Council Member Nicol said he would do the same.

**ACTION:** No action was taken.

F. Approval of Check Register Reports

**1) City: Approval of City Check Register Reports dated May 6 and May 13, 2011. [300-10]**

**ACTION:** Council Member Harlan moved, seconded by Council Member Termini, to approve the Check Register Reports dated May 6 and May 13, 2011, including checks numbered 66209 through 66261 in the amount of \$51,246.05, and checks numbered 66262 through 66322 in the amount of \$99,073.48, respectively; and payroll disbursements for the May 6, 2011, payroll in the amount of \$177,142.76, for a Grand Total of \$327,462.29, as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**2) RDA: Approval of Redevelopment Agency Check Register Reports dated May 6 and May 13, 2011. [760-25]**

Director Nicol asked about Check #2946 to Goldfarb & Lipman for legal services pertaining to Castle Mobile Estates. Executive Director Goldstein said this relates to attorney services for the affordable housing partnership, not mobile home park rent control. In this instance the agency is paying the attorney to prepare documents to participate in the program.

**ACTION:** Director Harlan moved, seconded by Director Termini, to approve the Check Register Reports dated May 6 and May 13, 2011, including checks numbered 2942 and 2943 in the amount of \$150,075.00, and checks numbered 2944 through 2950 in the amount of \$20,218.97, respectively; for a Grand Total of \$170,293.97, as submitted. The motion carried on the following vote: AYES: Directors Harlan, Termini, Nicol, Storey, and Chairperson Norton. NOES: None. ABSENT: None. ABSTAIN: None.



**3. CONSENT CALENDAR**

Mayor/Chairperson Norton asked if there were any items on the Consent Calendar that members of the public or the City Council/Redevelopment Agency Directors wished to pull for separate discussion. Council Member/Director Storey had a question regarding Item 3.K. *(See discussion under that item.)* Mayor/Chairperson Norton stated he wished to make a quick comment regarding Item 3.H. pertaining to the Capitola Village and Wharf Business Improvement Area. *(See discussion under that item.)*

**CONSENT CALENDAR ACTION:** Council Member/Director Nicol moved, seconded by Council Member/Director Termini, to approve the Consent Calendar, as recommended. The motion carried on the following vote: AYES: Council Members/Directors Harlan, Termini, Nicol, Storey, and Mayor/Chairperson Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**A. Approve Reading by Title of all Ordinances and Resolutions and declare that said Titles which appear on the Public Agenda shall be determined to have been read by Title and Further Reading Waived.**

**ACTION:** The City Council unanimously approved the reading by title of all Ordinances and Resolutions and declared that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

**B. City/RDA: Approve City Council/Redevelopment Agency Minutes – None**

**C. Award contract to Overland Pacific & Cutler to prepare a Relocation Impact Report and Relocation Plan for Pacific Cove Mobile Home Park in an amount not to exceed \$20,000. [260-10/500-10 A/C: Overland Pacific & Cutler]**

**ACTION:** Council Member Nicol moved, seconded by Council Member Termini, to authorize the City Manager to enter into a contract with Overland Pacific & Cutler in an amount not to exceed \$20,000 for the preparation of a Relocation Impact Report (RIR), Relocation Plan (RP), and associated documents for the Pacific Cove Mobile Home Park, as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**D. Accept update report on the Rispin Property Hazard Abatement Project, adopt proposed resolution amending the FY 2010/11 Budget and, by 4/5 vote approval, make the determination that all hazards at the Rispin Property have not been eliminated and there is need to continue action. [275-60]**

**ACTION:** Council Member Nicol moved, seconded by Council Member Termini, to accept the updated report on the Rispin Property Hazard Abatement Project and made the determination that all hazards at the Rispin Property, as detailed in the March 1, 2011, Notice of Summary Abatement Order to Abate Dangerous Buildings and Grounds, have not been eliminated and that there is a need to continue action. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**E. Confirmation of the City's Investment Policy, Administrative Policy Number III-1. [350-10/Administrative Policy Binder]**

**ACTION:** Council Member Nicol moved, seconded by Council Member Termini, to confirm the City's Investment Policy (Administrative Policy Number III-1; Revised August 9, 2001), as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**F. Deny the following liability claims and direct staff to forward the claims to the City's liability insurance carrier: [Claims Binder]**

## 3. F. CONSENT CALENDAR (Continued)

- 1) Veronica Shepardson, et al. - an undetermined amount
- 2) Tracey Conklin - an undetermined amount
- 3) Jeanne Roddy - \$9,500
- 4) Barbara & Mark Vasko - an undetermined amount
- 5) Kathleen S. Sullivan - an undetermined amount
- 6) Sidney C. Jackson - \$880
- 7) Larry Machado, et al. - \$35,277
- 8) Larry Machado, et al. - \$10,000
- 9) William & Lee Ann Gilbert - \$50,000
- 10) Alan & Donna Fontaine - \$12,000

**ACTION:** Council Member Nicol moved, seconded by Council Member Termini, to deny the claims of the above-listed claimants and to forward the claims to the City's liability insurance carrier. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**G. Approve increase in Public Works Department crew allocation of Personal Holiday time by eight hours per person for their exemplary service to the City during the March floods. [600-10]**

**ACTION:** Council Member Nicol moved, seconded by Council Member Termini, to approve increasing the Personal Holiday allocation for Public Works crew members by eight hours per employee in recognition of their outstanding response to the March floods. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**H. Adopt Resolution of Intention to Levy Business Improvement Assessments for FY 2011-2012, which receives the Capitola Village and Wharf Business Improvement Area Annual Report and the proposed FY 2011-2012 Budget, sets a public hearing to receive oral or written protests on the levy of assessments for FY 2011-2012 for Thursday, June 9, 2011, after the hour of 7 p.m., and directs required noticing of the public hearing by the City Clerk and the Capitola Village and Wharf Business Improvement Area. [140-05]**

Prior to action on the Consent Calendar, Mayor Norton commented on this item. He would like to see some coordination between the BIA, the Chamber and the City to expand the Christmas spirit and activities in the Village area during the Christmas season. He would be interested in looking into the possibility of an ice skating rink, snowman building on the beach, etc., with cooperation of the businesses staying open later on certain nights during the holiday season. He is interested in bringing members of the community together to enjoy the Village. Mayor Norton said he would be willing to sit on a committee with the BIA and the Chamber to come up with something .

Carin Hanna, owner of the Craft Gallery and member of the BIA, responded to Mayor Norton regarding the ice skating rink and businesses staying open later during the holidays.

Gary Wetsel, owner of Paradise Beach Grill and President of the BIA, said the merchants appreciate the free parking during the holiday season, and the BIA welcomes the Mayor's offer to participate in a committee.

Mayor Norton and Council Member Termini volunteered to participate on a Christmas Season Planning Committee.

## 3. H. CONSENT CALENDAR (Continued)

**ACTION:** Council Member Nicol moved, seconded by Council Member Termini, to adopt **Resolution No. 3867, Resolution of Intention of the City Council of the City of Capitola to Levy Business Improvement Assessments for Fiscal Year 2011/2012**, as submitted, which receives the Annual Report and Proposed FY2011/2012 Budget prepared by the Capitola Village and Wharf Business Improvement Area, sets a public hearing to receive oral or written protests on the levy of the assessments for FY2011/2012 for Thursday, June 9, 2011, at 7 p.m., directs the City Clerk to give required notice in the newspaper, and directs the Capitola Village and Wharf Business Improvement Area to give required notice to each proposed affected business. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**I. Approve request by the Capitola Junior Lifeguard Parents Club for a Special Event Permit, Entertainment Permit, Encroachment Permit, and Bandstand Rental for the 2<sup>nd</sup> Annual Tola Fest Celebration for the Capitola Junior Guards on Friday, July 8, 2011, from 10:00 am to 8:00 pm, at Capitola Beach and the Bandstand, and request for a Grant for all Permit Fees and Bandstand Rental, in the amount of \$772.00. [1050-70]**

**ACTION:** Council Member Nicol moved, seconded by Council Member Termini, to approve the recommended action as follows:

1. Approved the Special Event Permit, including Entertainment Permit, Encroachment Permit, and Bandstand Rental for the **2nd Annual Tola Fest Celebration** for the Capitola Junior Guards to be held on Friday, July 8, 2011, from 10:00 am to 8:00 pm, at Capitola Beach and the Bandstand; and
2. Provided the Capitola Junior Lifeguard Parents Club with a Grant for the Permit Fees and Bandstand Rental in the amount of \$772.00, as submitted.

The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**J. Approve request by Chris Harmount for a Minor Special Event Permit, Entertainment Permit, and Encroachment Permit for a Block Party on Jewel Street between 45<sup>th</sup> Avenue and 47<sup>th</sup> Avenue, on Monday, July 4, 2011, from 3 to 7 p.m., and request for a grant for liability insurance and permit fees in the amount of \$172.00. [1050-70]**

**ACTION:** Council Member Nicol moved, seconded by Council Member Termini, to approve the recommended action as follows:

1. Approved the Minor Special Event Permit, including Entertainment and Encroachment Permits for the **Jewel Street Block Party** to be held on Monday, July 4, 2011, from 3 p.m. to 7 p.m.;
2. Provided applicant, Chris Harmount, with a Grant for the Liability Insurance Premium pursuant to Administrative Policy I -10; and
3. Provided applicant, Chris Harmount, with a Grant for the Permit Fees in the amount of \$172.00, as submitted.

The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

## 3. CONSENT CALENDAR (Continued)

**K. Adopt Resolution authorizing the City Manager to execute an amendment to the Standard Agreement with the HOME Investment Partnership Program for the Bay Avenue Senior Apartments Project to increase the grant to an amount not to exceed \$3,200,000. [750-50/760-30/500-10 A/C: State HCD HOME Program Grant-Bay Ave Senior Apts - Amendment]**

Prior to action on the Consent Calendar, Council Member Storey commented that this is an additional allocation for the Bay Avenue Senior Apartments Projects. He asked what the City's consideration is for providing this additional HOME funding for the project. Community Development Director Johnson said that, as stated in the staff agenda report, the purpose is to correct an oversight by HOME when they calculated the rents; therefore, HOME is providing more money to the program. Additionally, HOME identified the possibility that there were relocation expenses which they wanted to provide. Council Member Storey asked how much the rents would be adjusted. Community Development Director Johnson did not have that amount but said he would provide the information to him.

Council discussion was followed by this action:

**ACTION:** Council Member Nicol moved, seconded by Council Member Termini, to adopt **Resolution No. 3868, Resolution Authorizing Amendment to the Standard Agreement with the California State Department of Housing and Community Development for Funding Under the HOME Investment Partnership Program and the Execution of any Amendments thereto, and any Related Documents Necessary to Participate in the HOME Investment Partnerships Program**, as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

## 4. PUBLIC HEARINGS

**A. Public Hearing on Project Application #11-028, 201 Esplanade, to consider appeal of Planning Commission denial for an amendment to a Conditional Use Permit to allow a take-out window at an existing restaurant (Mr. Kebab) in the CV (Central Village) Zoning District [APN 035-211-05]. Property Owner: J. Xavier Sanchez. Representative: Amjad Al Asud. Presentation: Community Development Department. [730-10]**

Senior Planner Bane summarized the written agenda report, reviewed the three options provided in the recommended action, and responded to questions of council members.

As a point of clarification, City Attorney Barisone said he does not believe the agreement for Esplanade and beach clean-up efforts should be called a "development agreement." The council can include a condition of approval requiring the applicant to enter into an agreement for clean-up costs. However, "development agreement" is a term used where the city would actually be amending its zoning ordinance.

At 9:08 p.m., the City Council heard from the applicant.

Amjad Al Asud discussed the reasons he would like to have a take-out window. He introduced another proposal for the council to consider, which Senior Planner Bane shared on the overhead. He said they would like to move the take-out window to left side of building. Mr. Asud said their business is hurting right now, and a take-out window will help his business by offering more menu options for people to enjoy on the beach. He also shared photos of the lines forming on the Esplanade for Pizza My Heart, and the recyclable take-out boxes Mr. Kebab would be using. Mr. Asud responded to questions of council members.

## 4. A. PUBLIC HEARINGS (Continued)

Mayor Norton opened the public hearing at 9:24 p.m.

Laurie Heath, resident of Capitola Village living across the street from Mr. Kebab, commented on the lines for Pizza My Heart, which is not a problem. She would like to see a take-out window with other types of food besides hot dogs, pizza and burritos. She suggested having customers turn in take-out cartons for money, such as Pizza My Heart does.

Gary Wetsel, resident and business owner, said he would like businesses to succeed in the Village; however, he is concerned about the garbage and congestion on the sidewalk. Mr. Wetsel strongly urged the council to uphold the Planning Commission's denial of the application.

Carin Hanna, speaking as a long-time merchant in the Village, said she is adamantly opposed to take-out windows on the sidewalks in the Village. She would like to see the business succeed; however, she does not think the city should give public sidewalks to private business. She is also concerned about litter and take-out containers not able to fit in the city's garbage receptacles. Ms. Hanna also noted that all the restaurants in the Village can provide take-out food from inside the business.

Kate Arrieta, Capitola resident, said every restaurant provides take-out food and take-out menus are on their doors. She was at the Planning Commission meeting when this application was denied. The business has a conditional use permit for 6 chairs outside. Ms. Arrieta said there are now 14 chairs outside, and she showed photographs of the back of their building with people sitting at tables and chairs blocking the walkway. She is concerned about granting a take-out window when the business does not comply with their current conditional use permit.

Mr. Asud and his partner responded to Ms. Arrieta's comments.

Mayor Norton closed the public hearing at 9:44 p.m.

There was considerable council discussion regarding this item. Concern was expressed about overturning the Planning Commission's decision on this application.

Mayor Norton said he wants to see this business succeed and commented on the number of businesses that have tried to make it in that location. He then discussed provisions that he believes should be included in a motion if the Council decides to approve the application, as follows: The city should enforce the previous conditions of the conditional use permit, including a maximum number of 8 chairs for outdoor seating. The city should establish controls for approval of a take-out window. Mayor Norton recommended the following: He would prefer approving a side window only, although he could support two windows, one window on the Esplanade for ordering and one window in the alleyway for pick-up; the hours of operation should be limited to 11 a.m. to 8 p.m.; there should be no sale of glass bottles; there should be a trash-monitoring program all around the building in place by the business owner; there should be no moveable barriers or displays in front of the business on the Esplanade; and the City Council should review the conditional use permit in one year. If the business does not adhere to the conditions of the permit, it can be revoked.

Considerable Council discussion was followed by this action:

4. A. PUBLIC HEARINGS (Continued)

**ACTION:** Council Member Termini moved (as described by Mayor Norton in his comments), to uphold the appeal and approve Project Application #11-028, subject to the findings and conditions of approval contained in the agenda as modified to include two windows, one window for ordering on the Esplanade and one window for pick-up on the alleyway; that there be only one menu board next to the order take-out window; that the hours of operation will be limited to 11 a.m. to 8 p.m. daily; there shall be no sale of glass bottles; the business owner will implement a trash monitoring program all around the building to insure trash is cleaned up on an ongoing basis; there shall be no moveable barriers or outdoor displays in front of the business; and that the City Council shall review this conditional use permit in one year. Council Member Storey also suggested there be no plastic take-away bags.

The motion was seconded by Council Member Harlan.

The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, and Mayor Norton. NOES: Council Member Storey. ABSENT: None. ABSTAIN: None.

5. OTHER BUSINESS

A. Ordinance amending various sections of the Capitola Municipal Code pertaining to Municipal Code Enforcement [1<sup>st</sup> Reading]. Staff recommendation: adopt ordinance. [570-10]

City Clerk Greeninger summarized the written agenda. Limited Council discussion was followed by this action:

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to pass the proposed Ordinance Amending Sections 3.32.140, 5.24.090, 5.40.050, 8.06.050, 8.24.290, 8.24.310, 8.38.130, 8.60.020, 8.60.040, 8.64.060, 8.68.020, 9.12.070, 12.56.070, and 17.54.010 of the Capitola Municipal Code Pertaining to Municipal Code Enforcement to a second reading, as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

6. COUNCIL/RDA DIRECTORS/STAFF COMMUNICATIONS - None

7. ADJOURNMENT

The meeting was adjourned at 10:06 p.m. to a Special Joint Budget Study Session of the City Council/Redevelopment Agency to be held on Thursday, June 2, 2011, at 6:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

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Dennis R. Norton, Mayor  
Redevelopment Agency Chairperson

ATTEST:

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Pamela Greeninger, City Clerk  
Redevelopment Agency Secretary

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

June 9, 2011  
Capitola, California

**MINUTES OF A REGULAR JOINT MEETING**

**5:30 P.M - CLOSED SESSION - CITY MANAGER’S OFFICE**

At 5:30 p.m. in the City Hall Council Chambers, Mayor/Chairperson Norton noted that Council Members/Directors Harlan and Storey were not present at this time; however, a quorum of members were present so he made the announcement regarding the items to be discussed in Closed Session, as follows:

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

- Surf and Sand, LLC vs. City of Capitola, et al. (Surf & Sand Mobile Home Park)  
[Superior Court of the State of California for County of Santa Cruz, Case #CV 167716]
- Surf and Sand, LLC vs. City of Capitola, et al. (Surf & Sand Mobile Home Park)  
[U.S. District Court N.D., Case No. C09-05542 RS (Judge Richard Seeborg)]
- Los Altos/El Granada Investors vs. City of Capitola, et al. (Castle Mobile Estates)  
[U.S. District Court N.D., Case No. CV 04-05138 JF (Judge Jeremy Fogel)]
- Eileen Cholden vs. City of Capitola, Brent Joseph Massa, et al. [Superior Court of the State of California for County of Santa Cruz, Case #CV 171124]

**CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to subdivision (b) of Government Code §54956.9:  
One Case

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Titles: City Manager and City Attorney

**LIABILITY CLAIMS** (Government Code §54956.95)

- Claimant: Mark & Janet Cameron
- Claimant: Michael J. Pirnik
- Claimant: Kevin Calvert
- Claimant: Veronica Shepardson
- Agency claimed against: City of Capitola

Mayor/Chairperson Norton noted that there was no one in the audience; therefore, the City Council/Redevelopment Agency recessed at 5:31 p.m. to the Closed Session in the City Manager’s Office.

**REGULAR JOINT MEETING OF THE CAPITOLA CITY COUNCIL/REDEVELOPMENT AGENCY**

Mayor/Chairperson Norton called the Regular Joint Meeting of the Capitola City Council/Redevelopment Agency to order at 7:08 p.m. on Thursday, June 9, 2011, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

**ROLL CALL AND PLEDGE OF ALLEGIANCE**

- PRESENT:** Council Members/Directors Stephanie Harlan, Michael Termini, Kirby Nicol, Sam Storey, and Mayor/Chairperson Dennis Norton
- ABSENT:** Redevelopment Agency Treasurer Debbie Johnson
- OTHERS:** City Treasurer Jacques Bertrand
- STAFF:** City Manager/Executive Director Jamie Goldstein, City Attorney/General Counsel John G. Barisone, Community Development Director/Deputy Executive Director Derek Johnson, Chief of Police Michael Card, Public Works Director Steve Jesberg, Assistant to the City Manager Lisa Murphy, and City Clerk/Secretary Pamela Greeninger

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

City Attorney Barisone reported on the items discussed in Closed Session as follows:

The Council received a report regarding the administration of the settlement in the Surf and Sand Mobile Home Park lawsuits. No reportable action was taken.

The Council was update about the ongoing settlement negotiations in the case Los Altos/El Granada Investors v. City of Capitola relating to Castle Mobile Home Estates. No reportable action was taken.

There was a brief discussion regarding existing litigation Eileen Cholden vs. City of Capitola, Brent Joseph Massa, et al., pertaining to a skateboarding incident. City Attorney John Barisone said the matter was assigned to the city's insurance carrier.

The Council had a brief discussion regarding the tort claims of Mark & Janet Cameron, Michael J. Pirnik, and Kevin Calvert, which are on the open session agenda for action.

In addition the Council received a report from the City Attorney pertaining to anticipated litigation arising out of property damage in Pacific Cove Mobile Home Park as a result of the floods and took no action in closed session.

The Council received a brief status report from the City Attorney concerning the Veronica Shepardson tort claim (denied on May 26, 2011) arising from the city's Surf & Sand Mobile Home Park settlement.

**2. ORAL COMMUNICATIONS**

A. Additions and Deletions to Agenda – None

B. Public Comments

1) Winfred Thomas informed the council that, although she owns a home in Aptos, she cannot live in it due to health conditions she began experiencing when a new home was built next door with a SmartMeter located 25 feet from her home. Ms. Thomas wanted to share her story because she believes there may be many other people who are experiencing similar problems and do not understand why.

2) Marilyn Garrett commented on a Press Release issued by Joshua Hart entitled, "World Health Organization Warns of Cancer from Wireless and Widening Call to Disconnect 'Smart' Meter Mesh Network to protect Public Health." Ms. Garrett summarized the press release and another document pertaining to the World Health Organization's decision and she submitted copies to council members. She believes the city needs to halt this program across the state and country, and that PG&E's charter should be revoked.

3) Sandy Williams announced that she was at tonight's meeting as the City of Capitola's representative to, and Chair of, the Advisory Council of the Area Agency on Aging. She pointed out the tragedy that is occurring with the elderly and low-income tenants at Surf and Sand Mobile Home Park as a result of the City's settlement agreement with the owners of the park. She discussed the paperwork received by the tenants requiring 18 separate waiver documents to be submitted to the park owner. Ms. Williams said the tenants are being required to provide Social Security Numbers, birth dates, pension and veteran benefits, medical expenses, etc. She expressed concern that the residents' right of privacy is being waived under the settlement agreement. Ms. Williams responded to questions of council members.



## 2. B. 3) ORAL COMMUNICATIONS (Continued)

Community Development Director Johnson said staff will be meeting with the residents tomorrow, June 10, at 3:00 p.m. at the mobile home park clubhouse to assist the residents in filling out the necessary forms. He said the city's job is to inform the residents of the documents, not to offer legal advice.

City Attorney Barisone added the assets information being requested mirrors state requirements. City Manager Goldstein said certain types of assets are excluded from the calculations. He reminded the council that the settlement agreement pointed to the federal standard income determination process, which makes it very clear about how assets and income are counted.

Council Member Storey commented on information the City Council has which indicates that 35 people at the park are part-time or second homeowners. Ms. Williams said that figure is not correct. Council Member Storey expressed interest in staff verifying the number of full-time residents at the park.

4) Laurie Beamish, Surf and Sand Mobile Home Park resident, said they are not looking to the city to help residents fill out the documents; they are looking for information regarding the lease and rental agreement. According to the Mobile Home Residency Law, homeowners have certain privacy rights; however, they are being forced to give up their rights. The residents would like an explanation as to how this agreement with Ron Reed supersedes and takes over the mobile home residency law that protected them. Ms. Beamish requested that if staff is planning to come to the park, to please be prepared to answer those questions.

5) Shirley Hill, resident of Surf and Sand Mobile Home Park, commented that she recently received \$1458, which she used to purchase a burial, and she does not need to provide that information to Mr. Reed.

C. Staff Comments

City Manager Goldstein announced that the City has entered into a partnership with United Way to establish a charitable giving program with city employees, which would allow direct withdrawal from employee's salary each paycheck. Council members are included, and staff would be happy to provide that information to members interested in participating.

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

1) Council Member Termini announced that this weekend, beginning at 9 a.m. Saturday morning, the Capitola Rod & Custom Car Show will be held in Capitola Village.

2) Council Member Harlan reported on the Sanitation District meeting and said the District passed its budget and has put together a binder including projects for the next fiscal year. She also reported on a Local Regional Water Foundation and receipt of a state grant for the Aptos transmission line, which will get the sewer line off the beach.

3) Council Member Harlan reported that she attended the AMBAG meeting last night in Marina. She announced that Les White, a former City Manager for the City of San Jose, will lead the agency as Interim Director. She also provided highlights from the meeting, including AMBAG's population forecast as it relates to housing allocation numbers for the state, formation of a Regional Advisory Committee for SB 375, a grant for electric vehicles, and studies to be presented at next month's meeting.

4) Mayor Norton announced that he will be issuing a Mayor's Proclamation for the Special Olympics Law Enforcement Torch Run. The torch will be at Capitola City Hall on Wednesday, June 15, at approximately 11:15 a.m.

## 2. ORAL COMMUNICATIONS (Continued)

**E. Committee Appointments**

- 1) **Council Member Nicol's nomination of Alternate Jewel Box Neighborhood Representative to the General Plan Advisory Committee (GPAC), and City Council appointment. [740-40]**

Council Member Nicol nominated Mick Routh to serve as the Alternate for the Jewel Box Neighborhood.

**ACTION:** Council Member Storey moved, seconded by Council Member Harlan, to approve Council Member Nicol's nomination of Mick Routh as Alternate Jewel Box Neighborhood Representative to the General Plan Advisory Committee. The motion carried unanimously.

**F. Approval of Check Register Reports**

- 1) **City: Approval of City Check Register Reports dated May 20 and May 27, 2011. [300-10]**

Mayor Norton noted that the expense for mobile home park litigation was \$29,000 last month.

**ACTION:** Council Member Harlan moved, seconded by Council Member Nicol, to approve the Check Register Reports dated May 20 and 27, 2011, including checks numbered 66323 through 66375 in the amount of \$102,191.45, and checks numbered 66376 through 66432 in the amount of \$228,193.70, respectively; and payroll disbursements for the May 20, 2011, payroll in the amount of \$202,912.80, for a Grand Total of \$533,297.95, as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

- 2) **RDA: Approval of Redevelopment Agency Check Register Report dated May 27, 2011. [760-25]**

**ACTION:** Director Harlan moved, seconded by Director Termini, to approve the Check Register Report dated May 27, 2011, including checks numbered 2951 through 2955 in the amount of \$19,665.96, as submitted. The motion carried on the following vote: AYES: Directors Harlan, Termini, Nicol, Storey, and Chairperson Norton. NOES: None. ABSENT: None. ABSTAIN: None.

3. **CONSENT CALENDAR**

Mayor/Chairperson Norton asked if there were any items on the Consent Calendar that members of the public or the City Council/Redevelopment Agency Directors wished to pull for separate discussion. Council Member/Director Harlan said she would like to pull Item 3.I. pertaining to a Fund Balance Policy, and asked if she could comment on it at this time. The council/directors agreed. *(See comments under Item 3.I. on Page 11993.)*

**CONSENT CALENDAR ACTION:** Council Member/Director Termini moved, seconded by Council Member/Director Harlan, to approve the Consent Calendar as recommended, with the exception of Item 3.I., which was continued to the next regular meeting. The motion carried on the following vote: AYES: Council Members/Directors Harlan, Termini, Nicol, Storey, and Mayor/Chairperson Norton. NOES: None. ABSENT: None. ABSTAIN: None.

- A. Approve Reading by Title of all Ordinances and Resolutions and declare that said Titles which appear on the Public Agenda shall be determined to have been read by Title and Further Reading Waived.**

**ACTION:** The City Council unanimously approved the reading by title of all Ordinances and Resolutions and declared that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

## 3. CONSENT CALENDAR (Continued)

- B. City/RDA: Approve Minutes of the Regular Joint Meeting of the City Council/Redevelopment Agency of May 12, 2011, and the Special Joint Budget Study Session of May 25, 2011.**

**ACTION:** Council Member/Director Termini moved, seconded by Council Member/Director Harlan, to approve the City Council/Redevelopment Agency Minutes of the Joint Regular Meeting of May 12, 2011, and the Special Joint Budget Study Session of May 25, 2011, as submitted. The motion carried on the following vote: AYES: Council Members/Directors Harlan, Termini, Nicol, Storey, and Mayor/ Chairperson Norton. NOES: None. ABSENT: None. ABSTAIN: None.

- C. Receive Planning Commission Action Minutes for the Regular Meeting of June 2, 2011. [740-50]**

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to receive the Planning Commission Action Minutes for the Regular Meeting of June 2, 2011, as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

- D. Adopt Resolution Setting the 2011-2012 Appropriation Limit as required by Article XIII B of the California Constitution. [330-05]**

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to adopt **Resolution No. 3869, Resolution Setting the 2011-2012 Appropriation Limit as required by Article XIII B of the California Constitution**, as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

- E. Accept update report on the Rispin Property Hazard Abatement Project, ~~adopt proposed resolution amending the FY 2010/11 Budget (Note: there was no resolution proposed for adoption)~~ and, by 4/5 vote approval, make the determination that all hazards at the Rispin Property have not been eliminated, and there is need to continue action. [275-60]**

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to accept the update report on the Rispin Property Hazard Abatement Project and made the determination that all hazards at the Rispin Property, as detailed in the March 1, 2011, Notice of Summary Abatement Order to Abate Dangerous Buildings and Grounds, have not been eliminated, and there is a need to continue action. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

- F. Adopt Ordinance Amending Sections 3.32.140, 5.24.090, 5.40.050, 8.06.050, 8.24.290, 8.24.310, 8.38.130, 8.60.020, 8.60.040, 8.64.060, 8.68.020, 9.12.070, 12.56.070, and 17.54.010 of the Capitola Municipal Code pertaining to Municipal Code Enforcement [2<sup>nd</sup> Reading]. Staff recommendation: adopt ordinance. [570-10]**

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to adopt **Ordinance No. 955, Ordinance Amending Sections 3.32.140, 5.24.090, 5.40.050, 8.06.050, 8.24.290, 8.24.310, 8.38.130, 8.60.020, 8.60.040, 8.64.060, 8.68.020, 9.12.070, 12.56.070, and 17.54.010 of the Capitola Municipal Code Pertaining to Municipal Code Enforcement**, as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

## 3. CONSENT CALENDAR (Continued)

**G. Deny the following liability claims and direct staff to forward the claims to the City's liability insurance carrier: [Claims Binder]**1) **Mark & Janet Cameron: \$6,859.15**2) **Michael J. Pirnik: \$11,687.42**3) **Kevin Calvert: \$99,708.00**

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to deny the claims of the above-listed claimants and to forward the claims to the City's liability insurance carrier. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**H. Receive City Treasurer's Report for the month ended April 30, 2011 (Unaudited). [380-30]**

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to receive the City Treasurer's Report for the month ended April 30, 2011 (Unaudited), as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**I. Approve proposed Administrative Policy: Fund Balance Policy. [300-50/ Administrative Policy Binder]**

Prior to action being taken on the Consent Calendar, Council Member Harlan commented on this item, stating that at the AMBAG meeting held last night the board received a brief PowerPoint Presentation on their Fund Balance Policy; she thought it would be helpful for the council to see that information prior to voting on our City's policy. The presentation addressed the new reporting requirements under GASB 54. She wondered if it would be possible to put this item off to the next meeting so that the council can view the AMBAG information. City Manager Goldstein agreed the item could be continued.

**ACTION:** It was the consensus of the City Council to continue this item to the next regular meeting.

*At this time, Council Member Termini requested reordering Item 5.A., regarding the Public Art Project, for discussion prior to the public hearings, as the applicant is a teacher who must get up early for school in the morning. It was the consensus of the City Council to reorder that item. The City Council then considered Item. 5.A., as follows:*

## 5. OTHER BUSINESS

**A. Monterey Avenue Public Art Project. Staff recommendation: approve Tile Art Project and agreement with Roy Segura in an amount not to exceed \$10,000 from the Public Art Fund.**

Roy Segura, art teacher at New Brighton Middle School, discussed the proposed Tile Art Project for the Monterey Avenue wall. He said the students came up with the theme. They came up with old games that require no batteries; such as tetherball, yoyo, etc. Mr. Segura responded to questions of council members. Pictures of the proposed tiles were distributed to council members.

Council Member Termini, Chair of the Art & Cultural Commission, also discussed the proposed project to be funded from the public art fund.

Council Member Nicol asked if this item required a public hearing. He also wondered if the public should have the ability to comment on the proposed art, saying there might be some other themes people in the community would want to consider for the wall.

## 5. A. OTHER BUSINESS – REORDERED ITEM (Continued)

There was considerable council discussion regarding the process for approving public art projects. It was suggested that it might be a good idea to post a notice on the site.

Mr. Segura said this is a child's project, and as their instructor, he is facilitating the project.

Considerable Council discussion was followed by this action:

**ACTION:** Council Member Harlan moved, seconded by Council Member Termini, to approve the Monterey Avenue Tile Art Public Art Project and authorized agreement with Roy Segura in an amount not to exceed \$10,000 from the Public Art Fund, as proposed. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Storey, and Mayor Norton. NOES: Council Member Nicol. ABSENT: None. ABSTAIN: None.

## 4. PUBLIC HEARINGS

**A. Public Hearing to consider the Levy of Capitola Village and Wharf Business Improvement Area (CVWBIA) Assessments for Fiscal Year 2011/2012. Staff recommendation: adopt resolution. Presentation: Capitola Village and Wharf Business Improvement Area Executive Directors. [140-05]**

Carin Hanna, representing the Capitola Village and Wharf Business Improvement Area (BIA), provided information regarding the benefits and services provided by the Capitola Village and Wharf Business Improvement Area utilizing a PowerPoint Presentation. She said this is the 7<sup>th</sup> year the BIA has served the Village. She informed the council that the BIA has been talking about including associate members who are outside the area and said both the Best Western and the new Marriott Fairfield Inn are interested in joining. In addition, Gayle's Bakery and Monarch Cove Inn would be interested in joining. Following her presentation, Ms. Hanna responded to questions of council members.

Mayor Norton opened the public hearing at 8:27 p.m. Seeing no one, the public hearing was closed. It was noted that there were no protests to the Capitola Village and Wharf Business Improvement Area Assessments for FY2011/12.

**ACTION:** Council Member Nicol moved, seconded by Council Member Termini, to adopt **Resolution No. 3870, Resolution Confirming the FY 2011/2012 Capitola Village and Wharf Business Improvement Area Assessments and Adopting the Annual Plan and Fiscal Year 2011/2012 CVWBIA Budget**, and Levying Business Improvement Assessments for FY2011/2012, as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**B. City/RDA: Joint Public Hearing to conduct a Tax Equity & Fiscal Responsibility Act (TEFRA) Hearing required by Section 147 (f) of the Internal Revenue Code to consider adoption of resolutions authorizing issuance of Mobile Home Park Revenue and Subordination Bonds by the Independent Cities Finance Authority to be used to make a loan to the borrower, Millennium Housing Corporation, a Non-Profit housing provider, to acquire Castle Mobile Estates Park, and to approve agreements, affordability restrictions, promissory note, and deed of trust, and to consider an Ordinance Amending Section 2.18.120 of the Capitola Municipal Code pertaining to Mobile Home Rent Stabilization [1st reading]. Presentation: Community Development Department. [750-25 Castle Mobile Home Estates/500-10 A/C: All Agreements pertaining to Mobile Home Park Revenue & Subordination Bonds by Independent Cities Finance Authority to Millennium Housing Corporation to acquire Castle Mobile Home Estates]**

## 4. B. PUBLIC HEARINGS (Continued)

Utilizing a PowerPoint Presentation, Community Development Director Johnson summarized the written agenda report as it relates to the purpose of the hearing and reviewed the recommended actions which included adoption of City Council and Redevelopment Agency Resolutions approving execution of various documents. He said there is no financial obligation of the city by taking the recommended actions.

Community Development Director Johnson said the following people are available for questions of Council Members and Agency Directors pertaining to the documents:

Barbara Kautz, Goldfarb & Lipman, the Agency's Special Legal Counsel  
 George Turek, President of Millennium Housing  
 Preston Olson, Bond Counsel  
 Pam Newcomb, Investment Banker

Following his presentation, Community Development Director Johnson, Barbara Kautz, George Turek, and Pam Newcomb responded to questions of Council Members/Agency Directors pertaining to the various proposed documents and the process for setting the interest rate on the bonds.

Mayor/Chairperson Norton opened the public hearing at 9:20 p.m.

An unidentified man said he was curious about what would happen to the space rent if a coach is sold, since the city is doing away with rent control. He was informed that the space rent would remain affordable and would only go up from the initial rent based on CPI (Consumer Price Index) increases.

Mayor Norton closed the public hearing at 9:24 p.m.

Council Member/Director Harlan commented on incorrect information contained on pages 171 and 174 as follows, and suggested making corrections:

Page 171, under Community Services and Facilities, the city does not provide "[water, wastewater, storm drainage, fire]" services.

Page 174, at the bottom of the page regarding "Schools," the information regarding schools is not correct, as there is only one middle school located in the City. Council Member/Director Harlan said that perhaps we should state what schools we have in the city and then indicate schools located in the "region."

Community Development Director Johnson also noted that there are corrections to the draft resolutions of the City Council and the Redevelopment Agency on pages 407, 411 and 412 of the agenda packet. On the Council's resolution on page 407, the number 96 in the second paragraph should be changed to "86" units, and on pages 411 and 412, the number "64" should be changed to "86" units.

Considerable Council/Agency discussion was followed by this action:

**ACTION:** Council Member/Director Termini moved, seconded by Council Member/Director Storey, to approve the recommended action, as submitted and with corrections to the City and Redevelopment Agency resolutions pertaining to use of Redevelopment Agency funds to change the figure for number of units of existing affordable mobile home residences to "86." The motion carried on the following vote: AYES: Council Members/Directors Harlan, Termini, Nicol, Storey, and Mayor/Chairperson Norton. NOES: None. ABSENT: None. ABSTAIN: None. *(Pursuant to the motion, the following actions were taken:)*

4. B. PUBLIC HEARINGS (Continued)
1. **CITY:** Adopted **Resolution No. 3871, Resolution of the City Council of the City of Capitola Approving, Authorizing, and Directing Execution of an Associate Membership Agreement with the Independent Cities Finance Authority and Approving the Issuance of Bonds by the Authority with respect to Castle Mobile Home Estates.** The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.
  2. **CITY:** Adopted **Resolution No. 3872, Resolution of the City Council of the City of Capitola authorizing Use of Redevelopment Project Areas and Housing Trust Funds to Assist in the Acquisition, Rehabilitation, and Preservation as Affordable Housing of Castle Mobile Home Estates; Approving Loan Documents Associated with such Use of funds; and Making required Statutory Finding in Connection Therewith** (authorizing the City Manager to file a Notice of Exemption with respect to the approval of the Loan and the Loan Documents in accordance with applicable provisions of CEQA, to execute a First Restated and Amended Loan Agreement, Regulatory Agreement, and Subordination Agreement in substantially similar form, and to approve the Promissory Note and the Deed of Trust in substantially similar form), as corrected to change the number of units of existing affordable mobile home residences from “64” to 86. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.
  3. **RDA:** Adopted **Agency Resolution No. 2011-7, Resolution of the Board of Directors of the Redevelopment Agency of the City of Capitola Approving Use of Redevelopment Housing Funds from the Capitola Redevelopment Project Area and Housing Trust Funds to Assist in the Acquisition, Rehabilitation, and Preservation as Affordable Housing of Castle Mobile Home Estates; Approving Loan Documents Associated with such use of funds; and making required Statutory Findings in Connection Therewith** (authorizing the Executive Director to execute a First Restated and Amended Loan Agreement, Regulatory Agreement, and Subordination Agreement in substantially similar form, and to approve the Note and the Deed of Trust in substantially similar form), as corrected to change the number of units of existing affordable mobile home residences from “96” to 86. The motion carried on the following vote: AYES: Directors Harlan, Termini, Nicol, Storey, and Chairperson Norton. NOES: None. ABSENT: None. ABSTAIN: None.
  4. **CITY:** Passed the first reading of the proposed **Ordinance Amending the Title of Section 2.18.120 and Adding Subsection E. to Section 2.18.120 of the Capitola Municipal Code pertaining to Mobile Home Park Rent Stabilization,** to exempt Mobile Home Parks for which the City and a nonprofit corporation have entered into a Regulatory Agreement and Declaration of Restrictive Covenants to provide affordable housing, as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

Based on adoption of the above resolutions, the following agreements were approved and the City Manager/Redevelopment Agency Executive Director was authorized to execute:

**City/RDA:** Regulatory Agreement and Declaration of Restrictive Covenants (Castle Mobile Home Estates) between the Redevelopment Agency of the City of Capitola, City of Capitola, and Millennium Housing Corporation, Inc.

## 4. B. PUBLIC HEARINGS (Continued)

**City/RDA:** First Amended and Restated City and Agency Loan (Castle Mobile Home Estates) between the Redevelopment Agency of the City of Capitola, City of Capitola, and Millennium Housing Corporation, Inc.

**City/RDA:** Subordination Agreement (Record) between Union Bank, N.A., City of Capitola, and the Redevelopment Agency of the City of Capitola, pertaining to Mobile Home Park Revenue Bonds (Castle Mobile Home Estates).

**C. Public Hearing to consider application to State of California 2008 Disaster Recovery Initiative Allocation of the State CDBG Program for \$250,000 for development of the City's local Hazard Mitigation Plan and the Safety Element of the General Plan Update. Staff recommendation: adopt resolution. Presentation: Community Development Department. [700-10]**

Mayor Norton opened the hearing at 9:36 p.m. Seeing no one, the public portion of the hearing was closed.

There was no council member discussion prior to the following action being taken:

**ACTION:** Council Member Harlan moved, seconded by Council Member Termini, to adopt **Resolution No. 3873, Resolution Approving an Application for Funding and the Execution of a Grant Agreement and Any Amendments thereto from the 2008 Disaster Recovery Initiative (DRI) Allocation of the State CDBG Program for the Local Hazard Mitigation Plan and the Safety Element of the General Plan**, as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

## 5. OTHER BUSINESS

## A. Monterey Avenue Public Art Project.

This item was reordered following Consent Calendar Item 3.I. (*See page 11993 for discussion and action.*)

**B. Proposal for July 4, 2011, Police Department Public Safety Operation for Capitola Beach. Staff recommendation: consider options for Capitola Beach public safety during operations on July 4, 2011, and provide direction to staff.**

Chief of Police Card summarized the written agenda report and reviewed the highlights of the proposed safety operations.

He then introduced Police Officer Andy Dally, who has worked on this project with other agencies in Santa Cruz County. Chief of Police Card announced that Andy will be sworn in as a Police Sergeant on Monday, June 13, at 10 a.m. in the Council Chambers. In addition, the city's newest Police Officer, Dan Weagle, will also be sworn in at that time.

Council discussion was followed by this action:

**ACTION:** Council Member Nicol moved, seconded by Council Member Termini, to approve the Chief of Police's recommendation and proposed Operations Order contained in the staff agenda report for the upcoming Fourth of July holiday, with direction to staff to report back to the council regarding how the plan worked. The motion carried unanimously.



**6. COUNCIL/RDA DIRECTORS/STAFF COMMUNICATIONS**

City Attorney Barisone announced that the Cabrillo Mobile Home Estates has formally withdrawn their application for a rent increase, in light of the fact that most of the tenants at the park are now in long-term leases, which, in turn, exempts them from the rent control regulations. **[750-25 Cabrillo Mobile Home Estates]**

**7. ADJOURNMENT**

The meeting was adjourned at 9:58 p.m. to a Special Joint Budget Study Session of the City Council/Redevelopment Agency to be held on **Wednesday**, June 15, 2011, at 6:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

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Dennis R. Norton, Mayor  
Redevelopment Agency Chairperson

ATTEST:

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Pamela Greeninger, City Clerk  
Redevelopment Agency Secretary

June 2, 2011

Capitola, California

**CAPITOLA CITY COUNCIL**

**MINUTES OF SPECIAL JOINT BUDGET STUDY SESSION  
OF THE CITY COUNCIL/REDEVELOPMENT AGENCY**

Mayor/Chairperson Norton called the Special Joint Budget Study Session of the Capitola City Council and the Redevelopment Agency of Thursday, June 2, 2011, to order at 6:12 p.m. in the Capitola City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

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

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

**ABSENT:** None

**STAFF:** City Manager/Executive Director Jamie Goldstein, Community Development Director/ Deputy Executive Director Derek Johnson, Chief of Police Michael Card, Public Works Director Steve Jesberg, Assistant to the City Manager Lisa Murphy, and City Clerk/ Secretary Pamela Greeninger

**OTHERS:** City Treasurer Jacques Bertrand and Redevelopment Agency Treasurer Debbie Johnson

**2. ORAL/COUNCIL COMMUNICATIONS**

Council Member/Director Termini announced that this Sunday, June 5, is the first Art and Music at the Beach for the season. Due to the prediction of rain, artists may not set up as planned. He said the Johnny Fabulous Trio is scheduled to perform at the Bandstand beginning at 2 p.m.

**3. BUSINESS**

**A. Presentation of the Proposed 2011/2012 Fiscal Year Budget for the City of Capitola General Fund, the Capitola Redevelopment Agency, and the Five-Year Capital Improvement Program [330-05 CITY/760-25 RDA/330-20 CIP]**

City Manager/Executive Director Goldstein provided a recap of last week's budget study session and responded to questions of members.

**1) Public Hearing to receive Community Grant Funding Requests. [330-30]**

City Manager Goldstein provided a brief report on the Community Grant funding requests. He said the total grant request is for \$299,350 with three new groups requesting funding.

Council Member Storey confirmed to the council that as CEO of Community Bridges, which is one of the recipients of the Capitola community program grants, he is not able to participate in the deliberations; however, he is able to sit through the public hearing presentations and discussion regarding the Finance Advisory Committee recommendations and other budget deliberations. At such time as the Council deliberates on the community grant funding, he will recuse himself from participating.

Mayor Norton opened the hearing at 6:19 p.m.

3. A. 1) Community Grant Funding Requests (Continued)

Will O’Sullivan, representing the Human Care Alliance (HCA), thanked the Council for its support of community services. He provided information about the HCA, saying it is a 27-year-old organization formed by more than 60 nonprofit community service and human service care organizations. Of those 60 organizations, thirty-plus members are programs that the city funds. Mr. O’Sullivan shared a PowerPoint Presentation regarding the HCA nonprofit services.

Kathleen Johnson, Executive Director for Advocacy Inc., also addressed the council members regarding the HCA members. She emphasized the partnership the HCA has had with the city. She also said the groups are not asking for a COLA this year; however, the application process does allow for certain agencies to request additional funding. Ms. Johnson then called the names of each Human Care Alliance agency, and a representative from each stood:

Advocacy Inc., Big Brothers Big Sisters, Cabrillo Stroke Center, California Grey Bears, California Rural Legal Assistance, CASA, Central Coast Center for Independent Living, Community Action Board Shelter Project, Community Bridges Programs: Child Development, Lift Line, Live Oak Family Resource Center, and Meals on Wheels, Conflict Resolution Center, Dientes Community Dental Care, Families in Transition, Family Service Agency of the Central Coast, Homeless Community Resource Center, Hospice of Santa Cruz County, O’Neill Sea Odyssey, Parents Center, Santa Cruz Aids Project, Santa Cruz Community Counseling Center, Santa Cruz Toddler Care Center, Second Harvest Food Bank, Senior Citizens Legal Services, Senior Network Services, Seniors Council: Area Agency on Aging and Project Scout, Survivors Healing Center, Volunteer Center of Santa Cruz County, WomenCARE, and Women’s Crisis Support – Defensa de Mujeres.

While all of the representatives were standing, Ms. Johnson pointed out that these organizations are the community’s safety net of services provided to the residents of Capitola. On behalf of these agencies, she said they all appreciate the City for its support. She also commented on the need to know what each agency’s funding will be for FY2011/12, as it is crucial in obtaining other funding with the state.

Ms. Johnson then discussed the additional \$400 in funding requested by her organization, Advocacy Inc., explaining the importance to train volunteers.

A representative from Senior Network Services responded to a question from Mayor Norton regarding their additional funding request.

Following the presentation by Human Care Alliance, Mayor Norton asked if any other groups wished to address the Council at this time.

Laura Kasa, Executive Director of Save our Shores, said their organization is new to requesting funding from Capitola. She discussed the services they provide to organize beach clean-ups throughout the year, and she responded to questions of council members. Public Works Director Jesberg informed the council that the City contracts with the Coastal Watershed Counsel to perform educational outreach and clean ups. He said the City could partner with Save Our Shores for beach clean-up.

3. A. 1) Community Grant Funding Requests (Continued)

Sally Green, Cultural Council of Santa Cruz County, thanked the City for three decades of support to the Cultural Council. She discussed the programs of the Cultural Council, commented on the Open Studios event, and responded to questions of council members.

Brook Johnson, Second Harvest Food Bank, thanked the City Council for its support for social services provided by their organization. She informed the Council that they service over 1,500 residents of Capitola by keeping children, seniors and others well fed.

Mayor Norton asked if there were a representative from the Walnut Avenue Women's Center and United Way in attendance to present their requests for new funding. He said that if a new group is interested in receiving funding, it would be important for them to be in attendance at this hearing.

Marie Cubillas, Executive Director of Big Brothers Big Sisters, said she is also on the board of the United Way, and she would be happy to respond to questions regarding the request for the 211 Program.

City Manager Goldstein informed the Council that the 211 Program was funded last year outside of the community grant process, with direction to staff to incorporate it into the regular community grant funding process.

City Manager Goldstein announced that the next budget study session will be held on Wednesday, June 15, 2011, at 6:00 p.m. At that meeting the City Council/Redevelopment Agency will provide final direction to staff on the budget, including Community Grant Funding.

**2) Finance Advisory Committee Recommendations**

City Treasurer Bertrand said Chair Bob Begun would make an interim budget report, as the Finance Advisory Committee will be meeting again on the June 14 to consider budget recommendations, and the committee will make its final report to the Council/Agency on June 15.

Finance Advisory Committee Chair Begun submitted "Recommendations by FAC to Capitola City Council" in writing and summarized those preliminary recommendations (copy on file). Following his presentation, there was discussion by the council members/agency directors.

**3) City Council/RDA Director Deliberation and Direction**

City Manager/Executive Director Goldstein asked if there were any specific items the council/agency would like staff to address for the next budget study session. He would be interested in having the council/agency identify which expenditures need to be deferred, should the disaster reimbursements not come to pass.

There was interest in a 6-month budget review, possible reinstatement of the Redevelopment Agency loan payment after staff investigation of the legalities, interest in staff reviewing direct costs for city staff time spent on Redevelopment Agency work, possible postponement of monies allocated in the budget for a future library, postponing equipment and vehicle replacement, review of contract services to see if anything could be postponed, and interest in postponing CIP projects, hiring a finance director, and payments to community groups for 6 months.

It was noted that the consensus of the Finance Advisory Committee was not to bring the contingency and emergency reserves up to policy requirements at this time.

Council Member/Director Harlan said the RDA owes the city \$1.2 Million, and perhaps the agency could repay the city. Council Member/Director Storey said the money could be used for the contingency and emergency reserves

Council Member/Director Storey said as information comes in regarding disaster and insurance claims, the council needs to respond and act on that information.

At 7:51 p.m. Mayor/Chairperson Norton asked if anyone from the public wished to address the council/agency on the proposed budget. No one came forward.

**4. ADJOURNMENT**

The Joint Budget Study Session was adjourned at 7:52 p.m. to the next Joint Regular Meeting of the Capitola City Council/Redevelopment Agency to be held on Thursday, June 9, 2011, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

---

Dennis R. Norton, Mayor  
Redevelopment Agency Chairperson

ATTEST: \_\_\_\_\_, MMC  
Pamela Greeninger, City Clerk  
Redevelopment Agency Secretary



Item #: **3.C.**

## CITY COUNCIL AGENDA REPORT

### MEETING OF JUNE 23, 2011

FROM: OFFICE OF THE CITY CLERK

DATE: JUNE 14, 2011

SUBJECT: ORDINANCE AMENDING THE TITLE OF SECTION 2.18.120 AND ADDING SUBSECTION E. TO SECTION 2.18.120 OF THE CAPITOLA MUNICIPAL CODE PERTAINING TO MOBILE HOME PARK RENT STABILIZATION [2<sup>ND</sup> READING]

---

**Recommended Action:** By motion and roll call vote, adopt the proposed Ordinance Amending the Title of Section 2.18.120 and Adding Subsection E. to Section 2.18.120 of the Capitola Municipal Code pertaining to Mobile Home Park Rent Stabilization, as submitted.

---

#### **BACKGROUND**

At its meeting of June 9, 2011, the Capitola City Council/Redevelopment Agency conducted a TEFRA (Tax Equity and Financial Responsibility Act) Hearing and adopted the necessary City and Redevelopment Agency resolutions authorizing the issuance of bonds by the Independent Cities Finance Authority for the purpose of financing the acquisition, repair and restoration of the 109-unit Castle Mobile Home Estates. The proposed acquisition was dependent upon a modification to the City's Mobilehome Rent Stabilization Ordinance. The Council considered a proposed amendment which would add an additional exemption for parks owned by a nonprofit public benefit corporation that have entered into a regulatory agreement and have recorded a declaration of restrictive covenants to provide affordable housing.

#### **DISCUSSION**

The City Council/Redevelopment Agency held a Joint Public Hearing on June 9, 2011, and one of the considerations was a proposed ordinance amending the title of Section 2.18.120 and adding Subsection E. to Section 2.18.120 of the Capitola Municipal Code pertaining to Mobile Home Park Rent Stabilization. After receiving public comments and deliberating on that matter, the City Council took the following action with respect to the proposed ordinance amendment:

**ACTION:** Council Member Termini moved, seconded by Council Member Storey, to pass the first reading of the proposed Ordinance Amending the Title of Section 2.18.120 and Adding Subsection E. to Section 2.18.120 of the Capitola Municipal Code pertaining to Mobile Home Park Rent Stabilization, to exempt Mobile Home Parks for which the City and a nonprofit corporation have entered into a Regulatory Agreement and Declaration of Restrictive Covenants to provide affordable housing, as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. 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 July 23, 2011.

**ATTACHMENT**

Draft Ordinance

**Report Prepared By:** Pamela Greeninger, MMC  
City Clerk

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

# DRAFT

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

**AN ORDINANCE OF THE CITY OF CAPITOLA  
AMENDING THE TITLE OF SECTION 2.18.120 AND ADDING SUBSECTION E.  
TO SECTION 2.18.120 OF THE CAPITOLA MUNICIPAL CODE  
PERTAINING TO MOBILE HOME PARK RENT STABILIZATION**

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

Section 1. The title of Section 2.18.120 is amended to read as follows:

“2.18.120 Excluded parks.”

Section 2. Subsection E. is hereby added to Section 2.18.120 of the Capitola Municipal Code to read as follows:

“E. For Parks for which the City and a nonprofit public benefit corporation have entered into a regulatory agreement and recorded a declaration of restrictive covenants for the purpose of providing affordable housing.”

Section 3. Subsections A, B, C, and D of Capitola Municipal Code Section 2.18.120 shall remain in full force and effect.

Section 4. This ordinance shall take effect and be in full force thirty (30) days after its final adoption.

This ordinance was introduced on the 9<sup>th</sup> day of June, 2011, and was passed and adopted by the City Council of the City of Capitola on the 23<sup>rd</sup> day of June, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

DISQUALIFIED:

APPROVED:

\_\_\_\_\_  
Dennis R. Norton, Mayor

ATTEST:

\_\_\_\_\_, MMC  
Pamela Greeninger, City Clerk





## CITY COUNCIL AGENDA REPORT

MEETING OF JUNE 23, 2011

FROM: DEPARTMENT OF PUBLIC WORKS  
DATE: JUNE 15, 2011  
SUBJECT: RISPIN PROPERTY HAZARD ABATEMENT UPDATE NO. 7

---

**Recommended Action:** By motion and roll call vote, take the following actions:

1. Accept this update report on the Rispin Property Hazard Abatement Project, and
  2. By 4/5 approval, make the determination that all hazards at the Rispin Property as detailed in the March 1, 2011, Notice of Summary Abatement Order to Abate Dangerous Buildings and Grounds have not been eliminated and that there is a need to continue action.
- 

### **BACKGROUND**

On March 10, 2011 the City Council adopted Resolution No. 3859 declaring that an emergency condition exists as a result of the receipt of an Order to Abate a Hazardous Condition at the Rispin Mansion Property. Pursuant to Public Contracting Code Section 22050 the City Council must review this action at each subsequent regularly scheduled meeting and by 4/5 vote authorize work to continue under the emergency declaration.

### **DISCUSSION**

Project status:

The existing roof trusses were discovered to have significant dry rot and other damages. Repairs to these elements have been made. The design of the roof trusses for the fire damaged section have been valued, engineered and are currently on order. Completion of the roofing and painting is scheduled to take place in the next month.

### **FISCAL IMPACT**

Contracts in the amount of \$650,000 have been issued. As of June 15, 2011, there has been \$197,984 in invoices paid.

**ATTACHMENTS** - None

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

**Reviewed and Forwarded  
By City Manager:**

---



Item #: 3.E.

## CITY COUNCIL AGENDA REPORT

MEETING OF JUNE 23, 2011

FROM: CITY MANAGER'S DEPARTMENT  
DATE: JUNE 9, 2011  
SUBJECT: LIABILITY CLAIMS

---

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

---

### **DISCUSSION**

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

1. Maxine Dee Viola, et al: \$790,000
2. Mark Cameron, et al: an undetermined amount
3. Randall Howard, et al: \$14,443.90

**ATTACHMENTS:** None

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

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



## CITY COUNCIL/REDEVELOPMENT AGENCY AGENDA REPORT

MEETING OF JUNE 23, 2011

FROM: FINANCE DEPARTMENT

DATE: JUNE 10, 2011

SUBJECT: APPROVAL OF CONTRACT WITH ROGERS, ANDERSON, MALODY & SCOTT, LLP, AS THE CITY OF CAPITOLA'S INDEPENDENT AUDITOR FOR BOTH THE CITY AND REDEVELOPMENT AGENCY FINANCIAL AUDITS FOR FISCAL YEARS 2011/12 THROUGH 2013/14 IN THE AMOUNT OF \$30,960

---

**Recommended Action:** By motion and roll call vote, authorize the City Manager to execute a three year agreement for professional auditing services with Rogers, Anderson, Malody & Scott, LLP, certified public accountants, to conduct the 2011/12 through 2013/14 fiscal year audits for both the City of Capitola in the amount of \$25,160 and the Redevelopment Agency in the amount of \$5,800. The contract will include an option to renew for two additional years (FY14/15 and FY15/16).

---

### BACKGROUND

With completion of the FY2010/11 financial statements and reports, the City of Capitola/ Redevelopment Agency will complete its sixth year with the firm of Teaman, Ramirez and Smith (TRS), at which time the City's current contract with TRS ends. Generally accepted accounting principles regarding auditor objectivity and rotation recommend a change of auditors periodically as a matter of course. The impact of the Sarbanes-Oxley Act (SOA) has led many local government agencies to change financial audit services every 3 to 5 years. Section 203 of the SOA requires a five-year rotation cycle for the external lead and reviewing audit partners. Citing the SOA, the California Education Code, Section 41020 (2, 3) makes it unlawful for an accounting firm to provide audit services to local education agencies for more than six consecutive years. Similarly, a California Society of Municipal Financial Officers (CSMFO) survey of cities revealed that most rotate their audit firm on average every 5 year.

### DISCUSSION

On February 24, 2011, the City Council authorized the circulation of a Request for Proposal (RFP) for Professional Auditing Services. The RFP was sent electronically to 23 audit firms, with 3 audit firms submitting proposals for consideration. The proposals were evaluated by finance department personnel. Reference checks were utilized for gathering further information regarding the three competing firms. Particular attention was paid to the level of support provided and the methodology employed during the audit.

All three responding firms are highly regarded by their clients and produce thorough and timely financial reports, per their clients. However, two of the firms, Moss, Levy and Hartzheim and Rogers, Anderson, Malody and Scott, submitted more thorough proposals in terms of defining their methodologies and procedures and their overall relationship with their clients throughout the duration of the contract period.

The following table summarizes the first year audit cost quoted by each responding firm:

<b>Firm</b>	<b>City Audit FY11/12</b>	<b>RDA Audit FY11/12</b>	<b>Total FY11/12</b>
Moss, Levy & Hartzheim	\$34,150	\$5,750	\$39,900
Rogers, Anderson et al	\$25,160	\$5,800	\$30,960
Hayashi & Weyland	\$22,500	\$7,500	\$30,000

Note: A schedule of the detailed costs for each firm for each fiscal year is attached

The current auditor, TRS, will charge \$25,500 for the City audit and \$5,800 for the Redevelopment Agency audit for the current (FY10/11) fiscal year. The amount budgeted for the audit in the FY11/12 budget is \$35,000 for the City and \$9,500 for the RDA, in anticipation of going out to bid: although TRS has been frugal in their annual increases (less than 1%), the City budgeted to accommodate an anticipated cost increase with a new vendor.

Based on an analysis of the proposals and associated costs, staff recommends contracting with Rogers, Anderson, Malody & Scott LLP as our new auditors for both the City and Redevelopment Agency financial audits beginning in FY11/12 and continuing through FY13/14, with an option to renew for FY14/15 and FY15/16.

**FISCAL IMPACT**

The current 2010/11 fiscal year cost for such services is \$25,500 for the City and \$5,800 for the RDA. The total new contract cost for audit service and annual reporting is \$30,960. This contract results in no increase in audit expenditures from 2010/11 to 2011/12 and is \$13,540 below the proposed budget amount, split between the General Fund (-\$9,840) and RDA (-\$3,700).

**ATTACHMENT**

Audit Pricing Comparison 2011-12 audit

**Report Prepared By: Linda Benko**

**Approved by: Lonnie Wagner  
 Accountant II**

**Reviewed and Forwarded by City  
 Manager/Executive Director: \_\_\_\_\_**

	Year	City Audit Svcs	CAFR	SCO Rpt	Single Audit	Total City			RDA Audit Svcs	RDA Hsg Audit	Total RDA		Total Audit	% Increase over prior year
						\$ -					\$ -		\$ -	
TRS	2005-06	\$ 13,500	\$ 3,000	\$ 2,500	\$ 2,000	\$ 21,000			\$ 4,000	\$ 1,000	\$ 5,000		\$ 26,000	
TRS	2006-07	\$ 14,500	\$ 3,000	\$ 2,500	\$ 2,000	\$ 22,000	4.8%		\$ 4,500	\$ 1,000	\$ 5,500		\$ 27,500	5.8%
TRS	2007-08	\$ 21,800	incl.	incl.	\$ 2,500	\$ 24,300	10.5%		\$ 5,700	incl.	\$ 5,700		\$ 30,000	9.1%
TRS	2008-09	\$ 22,600	incl.	incl.	\$ 2,500	\$ 25,100	3.3%		\$ 5,800	incl.	\$ 5,800		\$ 30,900	3.0%
TRS	2009-10	\$ 22,900	incl.	incl.	\$ 2,500	\$ 25,400	1.2%		\$ 5,800	incl.	\$ 5,800		\$ 31,200	1.0%
TRS	2010-11	\$ 23,000	incl.	incl.	\$ 2,500	\$ 25,500	0.4%		\$ 5,800	incl.	\$ 5,800		\$ 31,300	0.3%
Moss, Levy, Hartzheim, LLP	2011-12	\$ 21,150	\$ 6,000	\$ 4,500	\$ 2,500	\$ 34,150	33.9%		\$ 4,700	\$ 1,050	\$ 5,750		\$ 39,900	27.5%
Rogers, Anderson, Malody & Scott, LLP	2011-12	\$ 16,600	\$ 3,660	\$ 2,380	\$ 2,520	\$ 25,160	-1.3%		\$ 3,400	\$ 2,400	\$ 5,800		\$ 30,960	-1.1%
Hayashi & Wayland, LLP	2011-12	\$ 18,000	\$ 2,000	\$ 500	\$ 2,000	\$ 22,500	-11.8%		\$ 5,000	\$ 2,500	\$ 7,500		\$ 30,000	-4.2%
Moss, Levy, Hartzheim, LLP	2012-13	\$ 21,890	\$ 6,210	\$ 4,660	\$ 2,500	\$ 35,260	3.3%		\$ 4,865	\$ 1,085	\$ 5,950		\$ 41,210	3.3%
Rogers, Anderson, Malody & Scott, LLP	2013-14	\$ 16,600	\$ 3,660	\$ 2,380	\$ 2,520	\$ 25,160	0.0%		\$ 3,400	\$ 2,400	\$ 5,800		\$ 30,960	0.0%
Hayashi & Wayland, LLP	2013-14	\$ 18,900	\$ 2,100	\$ 500	\$ 2,000	\$ 23,500	4.4%		\$ 5,200	\$ 2,625	\$ 7,825		\$ 31,325	4.4%
Moss, Levy, Hartzheim, LLP	2013-14	\$ 22,655	\$ 6,425	\$ 4,820	\$ 2,500	\$ 36,400	3.2%		\$ 5,035	\$ 1,125	\$ 6,160		\$ 42,560	3.3%
Rogers, Anderson, Malody & Scott, LLP	2013-14	\$ 17,000	\$ 3,700	\$ 2,500	\$ 2,750	\$ 25,950	3.1%		\$ 3,600	\$ 2,600	\$ 6,200		\$ 32,150	3.8%
Hayashi & Wayland, LLP	2013-14	\$ 19,800	\$ 2,200	\$ 500	\$ 2,000	\$ 24,500	4.3%		\$ 5,500	\$ 2,750	\$ 8,250		\$ 32,750	4.5%
Moss, Levy, Hartzheim, LLP	Total	\$ 65,695	\$ 18,635	\$ 13,980	\$ 7,500	\$ 105,810			\$ 14,600	\$ 3,260	\$ 17,860		\$ 123,670	
Rogers, Anderson, Malody & Scott, LLP	Total	\$ 50,200	\$ 11,020	\$ 7,260	\$ 7,790	\$ 76,270			\$ 10,400	\$ 7,400	\$ 17,800		\$ 94,070	
Hayashi & Wayland, LLP	Total	\$ 56,700	\$ 6,300	\$ 1,500	\$ 6,000	\$ 70,500			\$ 15,700	\$ 7,875	\$ 23,575		\$ 94,075	



## CITY COUNCIL AGENDA REPORT

**MEETING OF JUNE 23, 2011**

FROM: DEPARTMENT OF PUBLIC WORKS  
DATE: JUNE 15, 2011  
SUBJECT: CHERRY AVENUE STREET REHABILITATION

---

**Recommended Action:** By motion and roll call vote approve the plans, specifications, and engineer's estimate for the Cherry Avenue Street Rehabilitation project and authorize advertising for bids, setting the bid opening date for 11:00 a.m. on July 27, 2011.

---

### **BACKGROUND**

Included in the 2010-11 Capital Improvement Program is the Cherry Avenue Street Rehabilitation Project. This project will address the failing road pavement along the entire length of Cherry Avenue. The plans, specifications, and engineer's estimate have been completed for the project and the estimated cost of construction is \$90,000.

### **DISCUSSION**

The construction schedule is as follows:

Approval of plans & specifications	June 23, 2011
Bids received	July 27, 2011
Council award contract	August 11, 2011
Begin Construction	September 12, 2011 (following Art & Wine Festival)

### **FISCAL IMPACT**

The Pavement Management Program in Capital Improvement Program has a current balance of \$100,000 to cover the anticipated construction costs of \$90,000.

### **ATTACHMENTS**

1. Reduced Plan Set
2. Engineer's Estimate

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

**Reviewed and Forwarded  
By City Manager:**

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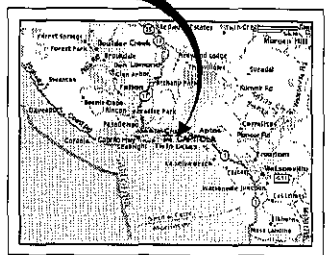
# CITY OF CAPITOLA CHERRY AVENUE STREET REHABILITATION PROJECT

**GENERAL NOTES**

1. ALL IMPROVEMENTS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THESE PLANS AND THE PROJECT SPECIFICATIONS.
2. EXACT FIELD LOCATION FOR NEW IMPROVEMENTS SHALL BE APPROVED BY THE ENGINEER BEFORE CONSTRUCTION.
3. VERIFICATION OF EXISTING CONDITIONS: CONTRACTOR SHALL VERIFY ALL EXISTING CONDITIONS, ELEVATIONS, DIMENSIONS AND CONSTRUCTION IN THE FIELD PRIOR TO CONSTRUCTION. IF ANY DISCREPANCIES ARE NOTED, THE CONTRACTOR SHALL NOTIFY THE ENGINEER IMMEDIATELY FOR DIRECTION.
4. UNDERGROUND SERVICE ALERT: A MINIMUM OF 48 HOURS PRIOR TO CONSTRUCTION, CONTRACTOR SHALL NOTIFY UNDERGROUND SERVICE ALERT AT 811 FOR EXISTING UTILITY LOCATIONS.
5. UNDERGROUND FACILITIES: THE LOCATION OF EXISTING UNDERGROUND AND SURFACE UTILITY FACILITIES, IF SHOWN ON THE PLANS, ARE APPROXIMATE ONLY. CONTRACTOR SHALL CONTACT THE RESPECTIVE UTILITY COMPANY TO OBTAIN INFORMATION REGARDING THE DEPTH OF BURIAL AND HORIZONTAL LOCATION OF UTILITY LINES. FIELD VERIFY OBTAINED INFORMATION, AND NOTIFY ENGINEER OF ANY CONFLICTS OR OMISSIONS.
6. NOTICE TO PROCEED: CONTRACTOR SHALL NOT COMMENCE WORK UNTIL AFTER A PRE-CONSTRUCTION MEETING HAS BEEN HELD WITH THE CITY, AND AFTER A NOTICE TO PROCEED HAS BEEN ISSUED BY THE CITY.
7. TRAFFIC CONTROL DURING CONSTRUCTION SHALL BE THE CONTRACTOR'S RESPONSIBILITY AND SHALL BE IN ACCORDANCE WITH THE CONTRACT DOCUMENTS. THE CONTRACTOR SHALL PROVIDE ALL LIGHTS, SIGNS, BARRICADES, FLAG MEN AND OTHER DEVICES TO PROVIDE FOR SAFE PASSAGE OF PUBLIC VEHICULAR AND PEDESTRIAN TRAFFIC.
8. THE CONTRACTOR SHALL SUBMIT TRAFFIC CONTROL (INCLUDING STREET CLOSURE DETAILS) TO THE ENGINEER AT THE PRE-CONSTRUCTION MEETING. THE NOTICE TO PROCEED SHALL NOT BE ISSUED UNTIL SAID TRAFFIC CONTROL PLAN HAS BEEN SUBMITTED AND APPROVED BY THE ENGINEER.
9. CONTRACTOR SHALL PROVIDE ALL SAFETY DEVICES IN ACCORDANCE WITH CURRENT CALTRANS TRAFFIC CONTROL STANDARDS INCLUDING, BUT NOT LIMITED TO, LIGHTS, SIGNS, BARRICADES, AND FLAGPERSONS.
10. CONTRACTOR SHALL KEEP EXISTING STREETS FREE FROM ANY CONSTRUCTION AND DEBRIS DURING ALL PHASES OF CONSTRUCTION.
11. PRIOR TO OBTAINING WATER FROM FIRE HYDRANTS, CONTRACTOR SHALL OBTAIN A HYDRANT METER FROM OPERATOR OF WATER SYSTEM.
12. CONTRACTOR SHALL MAINTAIN ACCESS TO ALL PROPERTIES ALONG THE PROJECT AREAS THROUGHOUT THE LIFE OF THE CONTRACT.
13. ALL EXISTING UTILITY FACILITIES WITHIN THE PROJECT SHOWN ON THE PLANS ARE TO BE ADJUSTED TO GRADE BY THE CONTRACTOR. UTILITY COMPANIES, HOWEVER, RESERVE THE RIGHT TO ADJUST THEIR FACILITIES TO GRADE USING THEIR OWN FORCES AFTER THE CONTRACT IS AWARDED. NO COMPENSATION WILL BE ALLOWED FOR ANY ADJUSTMENT WHICH MAY BE PERFORMED BY THE OWNER OF THE FACILITIES. CONTRACTOR TO COORDINATE WITH UTILITY COMPANIES TO HAVE THEIR STRUCTURES ADJUSTED TO GRADE OR TO OBTAIN WRITTEN PERMISSION FROM UTILITY COMPANIES TO ADJUST THEIR STRUCTURES TO GRADE FOR THEM.
14. UTILITY REPAIR: CONTRACTOR SHALL REPAIR ANY DAMAGE OR INTERRUPTION OF UTILITIES, WATER LINES OR IRRIGATION SYSTEMS IMMEDIATELY.
15. THE CONTRACTOR IS RESPONSIBLE FOR MATCHING EXISTING STREETS, SURROUNDING LANDSCAPE AND OTHER IMPROVEMENTS WITH A SMOOTH TRANSITION IN PAVING AND GRADING, AND IS TO AVOID ANY ABRUPT OR APPARENT CHANGES IN GRASSES OR CROSS SLOPES, LOW SPOTS OR HAZARDOUS CONDITIONS.
16. CONTRACTOR SHALL COMPLY WITH THE RULES AND REGULATIONS OF THE STATE CONSTRUCTION SAFETY ORDERS AND CAL OSHA.
17. WHEN HAULING ANY EARTH, SAND, GRAVEL, STONE, DEBRIS, PAPER, OR ANY OTHER SUBSTANCE OVER ANY PUBLIC STREET, ALLEY OR PUBLIC PLACE THE CONTRACTOR SHALL NOT ALLOW MATERIAL TO BLOW OR SPILL OVER AND UPON SAID PUBLIC, ADJACENT OR PRIVATE PROPERTY.
18. GRADING OR ANY OTHER OPERATION THAT CREATES DUST SHALL BE STOPPED IMMEDIATELY IF DUST AFFECTS ADJACENT PROPERTIES. WATERING OR DUST PALLIATIVE IS REQUIRED AT ALL TIMES. MUD TRACKED ONTO STREETS OR ADJACENT PROPERTIES SHALL BE REMOVED IMMEDIATELY BY THE CONTRACTOR. STREETS SHALL BE SWEEP AS DIRECTED BY THE CITY INSPECTOR.
19. ALL UNDERGROUND UTILITIES WITHIN THE RIGHT-OF-WAY OR ACCESS EASEMENT, INCLUDING MAINS AND LATERALS, SHALL BE INSTALLED AND BACKFILL COMPLETED PRIOR TO THE START OF CURB, SIDEWALK AND PAVING CONSTRUCTION.
20. ALL TRENCH BACKFILL SHALL BE COMPACTED AS SHOWN IN CITY STANDARD PLANS.
21. ALL NEW STORM DRAIN INLETS SHALL BE STENCILED OR STAMPED WITH CITY'S CLEAN WATER PROGRAM STANDARD LOGO. NO DUMPING - DEBRIS, PRIOR TO THE FINAL INSPECTION. COORDINATE WITH ENGINEER.
22. ALL EXISTING IRRIGATION, LANDSCAPE MATERIALS, PAVEMENT DELINEATION, CURB AND GUTTER AND OTHER IMPROVEMENTS, THAT ARE NOT TO BE REMOVED BUT ARE DAMAGED DURING CONSTRUCTION, SHALL BE REPLACED OR RESTORED TO EXISTING CONDITION AT NO ADDITIONAL EXPENSE TO THE CITY.
23. TREES TO BE SAVED SHALL BE FLAGGED AND MARKED PRIOR TO ANY CLEARING OR STRIPPING WORK AND PROTECTIVE FENCING SHALL BE INSTALLED PRIOR TO COMMENCING ANY GRADING.
24. TOPOGRAPHIC DATA SHOWN ON THESE PLANS IS BY BOWMAN AND WILLIAMS, JUNE 23, 2010.

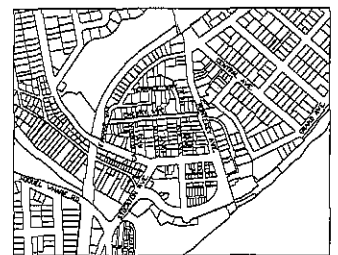
TO BE SUPPLEMENTED BY STATE OF CALIFORNIA,  
DEPARTMENT OF TRANSPORTATION, STANDARD  
PLANS, DATED MAY 2006, AS AMENDED

**PROJECT LOCATION**



VICINITY MAP

NO SCALE



LOCATION MAP

NO SCALE



**BASIS OF BEARINGS:**

NORTH ORIENTATION SHOWN HEREON IS BASED ON HOLDING THE BEARING OF THE SOUTHERN SIDELINE OF CHERRY AVENUE AS SHOWN ON 24 PM 82, SANTA CRUZ COUNTY RECORDS.  
= N 75°38' W

**BENCH MARK:**

BENCHMARK IS CITY OF CAPITOLA 2-212, AT THE INTERSECTION OF THE SOUTHERN PACIFIC RAILROAD AND MONTEZUMA AVENUE, 38.10 FEET WEST OF THE CENTERLINE OF THE AVENUE, 24.93 FEET SOUTH OF THE NEAR RAIL, 10.50 FEET NORTHWEST OF A UTILITY POLE WITH A STREET LIGHT ATTACHED LEVEL WITH THEIR TRACK AND IN A CONCRETE MONUMENT THAT PROJECTS 0.99 FEET ABOVE THE GROUND SURFACE.

ELEVATION = 66.70 FEET

CONTOUR INTERVAL = 1 FOOT

DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.

**INDEX OF SHEETS**

SHEET NO.	DRAWING NO.	DESCRIPTION
1	T-1	TITLE SHEET
2	D-1	TYPICAL CROSS SECTIONS AND DETAILS
3	P-1	PLAN
4	ST-1	STRIPPING PLAN

THE CONTRACTOR SHALL POSSESS THE CLASS (OR CLASSES) OF LICENSE AS SPECIFIED IN THE "NOTICE TO CONTRACTORS".

**LEGEND**

---	(E) GRADE CONTOUR
---	(C) UNDERGROUND CABLE TV LINE
---	(E) UNDERGROUND ELECTRICAL LINE
---	(E) UNDERGROUND GAS LINE
---	(E) UNDERGROUND SANITARY LINE
---	(E) UNDER TELEPHONE LINE
---	(E) UNDERGROUND WATER LINE
---	- HOT MIX ASPHALT (HMA)
---	- CONCRETE
---	- SURVEY CONTROL POINT
---	- SEWER MANHOLE
---	- SPOT ELEVATION (EXISTING)
---	- WATER VALVE

**ABBREVIATIONS**

AC	ASPHALT CONCRETE
BMK	BACK OF WALK
CONC.	CONCRETE
DNV.	GRIMMINGS
(E) EX.	EXISTING
EP	EDGE OF PAVEMENT
ETW	EDGE OF TRAVEL WAY
FC	FINISHED GRADE
HMA	HOT MIX ASPHALT
(E) PROP.	PROPOSED
PCC	PORTLAND CEMENT CONCRETE
PVC	POLYVINYL CHLORIDE PIPE
R/R	REMOVE & REPLACE
R/W	RIGHT OF WAY
STD	STANDARD
TC	TOP OF CURB
(TYP.)	TYPICAL
WM	WATER METER
WV	WATER VALVE

**APPLICABLE STATE STANDARD PLANS:**

<b>ITEM</b>	<b>PLAN</b>
1) ACRONYMS AND ABBREVIATIONS	A10A, A10B
2) SYMBOLS	A10C, A10D

NO WORKING DATE BEFORE YOU DO  
CALL USA TOLL FREE  
811



**Harris & Associates**  
178 Second Street, Suite C, Gilroy, CA 95020  
harris-assoc.com (408) 842-3777

**TITLE SHEET**

JOB #: 081-0746.01

**RECORD DRAWINGS**

DATE ACCEPTED: \_\_\_\_\_  
PROJECT ENGR: \_\_\_\_\_  
REVISIONS: BY: \_\_\_\_\_  
DATE: \_\_\_\_\_



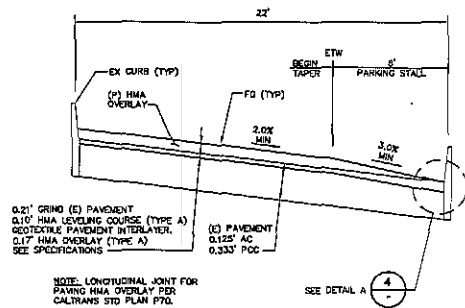
**CITY OF CAPITOLA  
DEPARTMENT OF PUBLIC WORKS**

NO.	BY	DATE	REVISION	CKO

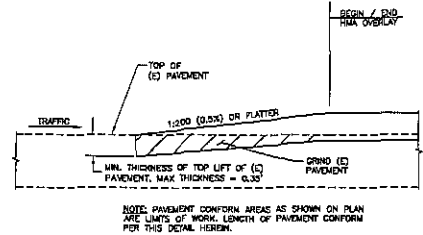
**CHERRY AVENUE  
STREET REHABILITATION PROJECT**

DESIGNED: JI	Drawing <b>T-1</b>
DRAWN: EA	
CHECKED: ML	JUNE 2011
SCALE: AS SHOWN	DATE

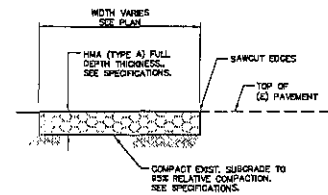
H:\Capitola-2008-2009 Street Resurfacing Project\Street Overlay - Cherry Avenue.dwg - 01-01-Detail 06/07/11 09:15 session BEECS X-BORDER



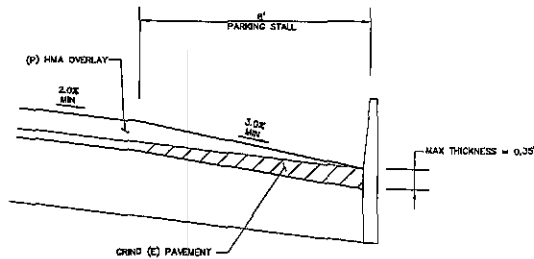
**1 TYPICAL SECTION**  
NO SCALE  
DIMENSIONS OF THE PAVEMENT STRUCTURE IS SUBJECT TO TOLERANCES SPECIFIED IN STANDARD SPECIFICATIONS.



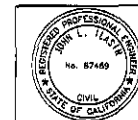
**2 PAVEMENT CONFORM DETAIL**  
NO SCALE



**3 PAVEMENT REPLACEMENT DETAIL**  
NO SCALE



**4 DETAIL A**  
NO SCALE



**Harris & Associates**  
179 Second Street, Suite C, Clroy, CA 95020  
Info@harrisa.com (959) 842-8777

**TYPICAL CROSS SECTIONS AND DETAILS**

JOB #: 081-0746.01

**RECORD DRAWINGS**

DATE ACCEPTED: \_\_\_\_\_  
PROJECT ENGR: \_\_\_\_\_  
REVISIONS: BY: \_\_\_\_\_  
DATE: \_\_\_\_\_



**CITY OF CAPITOLA  
DEPARTMENT OF PUBLIC WORKS**

NO.	BY	DATE	REVISION	CK'D

**CHERRY AVENUE  
STREET REHABILITATION PROJECT**

DESIGNED: JI  
DRAWN: EA  
CHECKED: ML  
SCALE: AS SHOWN  
DATE: JUNE 2011  
Drawing: **D-1**  
Sheet: 2 of 4









**Harris & Associates**

PROJECT: City of Capitola- Cherry Avenue Street Rehabilitation  
 PROJECT NO.: 031016132  
 DATE: 07/29/10  
 EST BY: JLI CKD BY: ML

**OPINION OF PROBABLE CONSTRUCTION COST**

BID ITEM NO.	BID ITEM DESCRIPTION	QTY	UNIT	UNIT PRICE	AMOUNT
1	Traffic Control and Construction Area Signs	1	LS	\$7,450.00	\$7,450.00
2	Grind Pavement	1,836	SY	\$2.00	\$3,672.00
3	Remove and Replace Pavement	1,232	SF	\$7.00	\$8,624.00
4	Hot Mix Asphalt Leveling Course (Type A)	105	TON	\$101.00	\$10,605.00
5	Geotextile Pavement Interlayer	1,615	SY	\$11.50	\$18,572.50
6	Hot Mix Asphalt Overlay (Type A)	178	TON	\$101.00	\$17,978.00
7	Pavement Conform	222	SY	\$16.00	\$3,552.00
8	Tack Coat (Asphaltic Emulsion)	0.62	TON	\$985.00	\$610.70
9	Tack Coat (Asphalt Binder)	0.28	TON	\$985.00	\$275.80
10	Adjust Manhole Frame and Cover to Grade	4	EA	\$805.00	\$3,220.00
11	Adjust Water Valve Cover to Grade	10	EA	\$420.00	\$4,200.00
12	Survey Monumentation	1	LS	\$1,320.00	\$1,320.00
13	Remove Pavement Marking - STOP	66	SF	\$2.50	\$165.00
14	Remove Pavement Marking - Stop Line	48	SF	\$2.50	\$120.00
15	Remove Pavement Marking - Arrow	15	SF	\$2.50	\$37.50
16	Remove Pavement Marking - Parking Stall	21	EA	\$17.00	\$357.00
17	Remove Pavement Marker	1	EA	\$6.00	\$6.00
18	Thermoplastic Pavement Marking - Parking Stall	21	EA	\$17.00	\$357.00
19	Thermoplastic Pavement Marking - STOP	66	SF	\$5.00	\$330.00
20	Thermoplastic Pavement Marking - Stop Line	48	SF	\$4.00	\$192.00
21	Thermoplastic Pavement Marking - Type IV (L) Arrow	15	SF	\$5.00	\$75.00
22	Pavement Marker - Blue, Two-Way Reflective (Fire Hydrant)	1	EA	\$20.00	\$20.00
				SUB-TOTAL	\$81,739.50
				CONTINGENCY (10%)	\$8,173.95
				TOTAL	\$89,913.45
				<b>SAY</b>	<b>\$90,000.00</b>
<p>Ref.: <u>2009 Contract Cost Data</u>. State of California Department of Transportation. 2009.  <u>2009 Heavy Construction Cost Data</u>. Reed Construction Data. 23rd ed. 2008.  <u>Bid Results- Capitola Road Traffic Calming Project</u>. City of Capitola. 31 March 2010.  <u>Bid Summary- 41st Avenue Street Rehabilitation Project</u>. City of Capitola. 01 July 2009                      Construction Cost Index. Jul '10 Index Value = 8864.72; % Change Year = +3.5, Engineering News Record.</p>					
<b>LIQUIDATED DAMAGES</b>					
<p>{0.15 x [\$90,000 + (\$90,000 x 0.15)] / 20 working days = \$784.88 per calendar day  <b>SAY \$800.00 per calendar day</b></p>					
<p>Ref.: <u>Local Assistance Procedures Manual</u>. State of California Department of Transportation. 10 February 2009.</p>					
<b>Assumptions:</b>					
<p>1. Mobilization is considered as included in the prices paid for the various items of work (10% of price) and no additional compensation will be allowed.</p>					



## CITY COUNCIL AGENDA REPORT

MEETING OF JUNE 23, 2011

FROM: CITY MANAGER

DATE: JUNE 16, 2011

SUBJECT: RESOLUTION APPROVING NEW CLASSIFICATION AND JOB DESCRIPTION FOR ADMINISTRATIVE SERVICES DIRECTOR AND THE APPROVAL OF AN EMPLOYMENT AGREEMENT WITH LISA MURPHY FOR THE POSITION

---

**RECOMMENDED ACTION:** By motion and roll call vote, that the City Council: 1) adopt the proposed resolution approving the new classification and job description for Administrative Services Director, and 2) approve the proposed Employment Agreement with Lisa Murphy effective July 10, 2011.

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### **BACKGROUND**

Historically, the City Manager has been the City of Capitola's primary human resources contact point. As the legal requirements associated with implementing public sector human resource policy has evolved over the years, the City's obligations have changed. As a result, staff is recommending the creation of a new specialized position of Administrative Services Director. This position will manage complex projects, programs, initiatives and participate as a member of the City's executive management team.

At the same time, staff is recommending defunding the Assistant to the City Manager position, resulting in limited changing to the City's overall staffing profile. Lisa Murphy, the current Assistant to the City Manager has been identified as the best possible candidate for the Administrative Services Director position. Ms. Murphy will be:

1. Assuming the duties of Personnel Manager – discipline, negotiations, employee programs, etc.
2. Administer the Workman's Compensation and City insurance programs
3. Develops and administers the City's current and future administrative services needs
4. Act as the City's Safety coordinator
5. Supervise the City's Art & Culture & Museum programs

### **DISCUSSION**

This position is an "at-will" position and is therefore exempt from FLAS overtime provisions. This position will be treated as other management positions, working at the pleasure of the City Manager and secured with a contract. Ms. Murphy is currently employed with the City, as such will retain her current leave balances and accrual rates and caps associated with her current tenure. The employment contract sets forth compensation and benefits including: Salary to be \$7,266/mo, Flexible Spending Credit and PERS cap will be the same as Miscellaneous Employees.

### **FISCAL IMPACT**

The FY2011-12 Budget includes funding for this position at 95%, which is reflected in the proposed salary. To address the reduced salary, the position is allocated an additional 104 hours of administrative

**ATTACHMENTS**

1. Draft Resolution including Job Description
2. Employment Agreement

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

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA  
APPROVING A NEW CLASSIFICATION AND JOB DESCRIPTION FOR  
THE POSITION OF ADMINISTRATIVE SERVICES DIRECTOR**

WHEREAS, Section 2.44.030 of the Capitola Municipal Code establishes the City Manager as the personnel officer, and authorizes him to prepare class specifications which shall become effective upon Council approval; and

WHEREAS, the Administrative Services Director will be responsible for overseeing the activities and operations of the Human Resources Division, Risk Management Programs, Art & Cultural Commission, Museum Department and other programs as assigned. This position will manage complex projects, programs, initiatives, or services; and

WHEREAS, the position is funded in the proposed FY 2011-12 budget at .95%; and

WHEREAS, a new job description for the classification of Administrative Services Director is attached as Exhibit "A" and herein incorporated by reference.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Capitola does hereby create the job description for the class of Administrative Services Director, which is included herein as Exhibit A.

BE IT FURTHER RESOLVED by the City Council of the City of Capitola that this position will be unrepresented and included as part of the Management Employees Group.

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the City Council of the City of Capitola on the 23<sup>rd</sup> day of June, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Dennis R. Norton, Mayor

ATTEST:

\_\_\_\_\_, MMC  
Pamela Greeninger, City Clerk

**EXHIBIT A****ADMINISTRATIVE SERVICES DIRECTOR****DEFINITION:**

Under general direction of the City Manager; to plan, manage, and oversee the activities and operations of the Human Resources Division, Risk Management Programs, Art & Cultural Commission, and Museum Department; participate as a member of the City's Executive Management Team in the consideration of general City policies, programs and concerns; manage complex projects, programs, initiatives, or Services that have community-wide impacts and involve plans and/or decisions of a policy nature and of key importance to the City having a long-term impact and perform related work as assigned

**SUPERVISION RECEIVED AND EXERCISED:**

Receives executive direction from the City Manager

Supervises the Art & Cultural Commission Administrative Assistant & Museum Director.

**ESSENTIAL DUTIES & RESPONSIBILITIES:** *(May include, but are not limited to, the following):*

- Manages and coordinates Human Resources, Risk Management, Art & Cultural Commission, Museum Department and others programs as assigned.
- Serves on the City's negotiating team; advises the City Manager and City Council on matters involving employee and labor relations. Coordinates and provides leadership in labor negotiations.
- Develops and administers the City's current and future administrative Services needs, develops recommendations, and submits policy change proposals for areas of responsibility.
- Serves as the primary source for City staff in employment matters including employee discipline issues, grievances, equal employment issues, classification and compensation issues, etc.; assists in investigations regarding employee misconduct.
- Interpretation of labor agreements, and formulation of policies and strategies.
- Develops and implements personnel policies, rules and procedures.
- Develops and conducts training programs for the public and other departments regarding organizational issues.
- Directs the formulation and implementation of long range plans for administrative Services and establishes standards, policies, and procedures for city-wide human resources initiatives; establishes policies and programs for city-wide training.
- Assists in the overall development of the City Budget as well as develop and administer assigned departmental budgets.
- Direct or perform analytical studies; develop and review reports of findings, alternatives and recommendations; direct the preparation of a variety of periodic and special reports regarding departmental activities;
- Makes presentation before the City Council and participate on various city management committees; represent the City in meetings with representatives of governmental agencies, professional and business organizations, employee organizations, and the public.

- Monitor developments and legislation related to employee relations matters, evaluate their impact upon City operations and recommend and implement policy and procedural improvements.
- Prepares and evaluates bid proposals, specifications, and contracts; monitors vendors to ensure compliance with contractual obligations.
- Develops and presents recommendations to appropriate audiences
- Provides technical assistance, guidance and consultation to the City Manager, City Council, City Executives, boards, commissions.
- Independently manages public processes related to the development of projects, programs and policies.
- Other duties as assigned.

#### EMPLOYMENT STANDARDS:

##### Knowledge of:

- Management principles and practices, including budgeting, supervision, personnel administration and performance management.
- Principles and practices of risk management.
- Principles and practices of human resources Services and processes including, but not limited to, recruitment, compensation, classification, benefit administration, disciplinary rules and procedures, labor relations and training.
- State and federal legislation affecting municipal administration.

##### Ability to:

- Work independently and make sound judgments; establish and maintain effective working relationships.
- Administration of the City's Risk Management program; identifies, researches and measures all exposure to loss, performing related duties as required.
- Coordinate and oversee City's Injury and Illness Prevention Program. Direct and coordinate and conduct training for the City's Safety Program.
- Prepare written procedures and policies; analyze requirements and needs; provide advice and consultation to ensure efficient outcomes.
- Analyze data and information to develop logical solutions to problems; monitor outcomes and recommend appropriate improvements to processes and procedures.
- Plan, budget, and manage complex projects.
- Negotiate, implement, and manage contracts.
- Strategize, collaborate, and build consensus.
- Excellent communication skills, orally and in writing, including communicating technical information in non-technical terms and presenting information to committees, staff, City Council, and others in both formats.
- Respond to difficult or sensitive complaints and requests for information from labor organizations, public, news media, and City staff.
- Direct, evaluate and supervise the work of assigned staff



WORKING CONDITIONS:

Position requires prolonged sitting, standing, walking, reaching, twisting, turning, kneeling, bending, squatting and stooping in the performance of daily activities. The position also requires grasping, repetitive hand movement and fine coordination in using a computer keyboard. Additionally, the position requires near and far vision in reading written reports and work related documents. Acute hearing is required when providing phone and personal Services. The need to lift, drag and push files, paper and documents weighing up to 25 pounds also is required.

Some of these requirements may be accommodated for otherwise qualified individuals requiring and requesting such accommodations.

EDUCATION AND EXPERIENCE:

Any combination of education and experience that provides the required knowledge and abilities shown above may be qualifying. A typical way of obtaining the required qualifications is to possess the equivalent of the following:

- A Bachelor's Degree in Business Administration, Public Administration, Management, Business Management, or a closely related field. A Masters Degree is desired, and
- Six (6) years of progressively responsible fiscal, administrative and human resources management experience involving responsibility for the planning, organization, implementation and supervision of varied administrative work programs. At least three (3) years must be at management level.

LICENSES:

Possession and continued maintenance of a valid California driver's license and a safe driving record or the ability to provide suitable transportation, subject to approval by the appointing authority.

Effective Date: July 1, 2011

**EMPLOYMENT AGREEMENT  
ADMINISTRATIVE SERVICES DIRECTOR**

THIS AGREEMENT entered into on the date last below executed, by and between the CITY OF CAPITOLA, a municipal corporation (hereinafter referred to as "CITY") and LISA MURPHY, an individual (hereinafter referred to as "EMPLOYEE").

WHEREAS, EMPLOYEE has been employed by Employer since January 2002 in the position of Assistant to the City Manager for the City of Capitola; and

WHEREAS, the CITY now desires to employ the services of EMPLOYEE as Administrative Services Director for the CITY; and

WHEREAS, EMPLOYEE desires to serve as the Administrative Services Director for the CITY with her first day beginning on July 10, 2011; and

WHEREAS, the CITY and EMPLOYEE desire to agree in writing to the terms and conditions of EMPLOYEE's employment as Administrative Services Director; and

WHEREAS, EMPLOYEE and CITY agree and acknowledge that EMPLOYEE's employment as Administrative Services Director is her sole and exclusive employment with CITY; and that their employment relationship is governed solely and exclusively by this Agreement.

NOW, THEREFORE, in consideration of the promises and conditions set forth herein, the parties mutually agree as follows:

1. Duties

(a) EMPLOYEE shall perform the duties set forth in Exhibit A, the Administrative Services Director Job Description, and other related legally permissible duties and functions as may be assigned from time to time by the City Manager.

(b) EMPLOYEE shall perform her duties to the best of her ability in accordance with the highest professional and ethical standards of the profession and shall comply with all general rules and regulations established by the CITY and applicable state codes.

(c) EMPLOYEE shall not engage in any activity, which is or may become a conflict of interest, prohibited by contract, or which may create an incompatibility of office as defined under California Law. EMPLOYEE shall comply fully with her reporting and disclosure obligations under regulations promulgated by the Fair Political Practices Commission (FPPC) and CITY.

(d) EMPLOYEE agrees to remain in the exclusive employ of the CITY during the term of this Agreement. EMPLOYEE shall dedicate her full energies and qualifications to her employment as Administrative Services Director, and shall not engage in any other employment except as may be specifically approved in writing in advance by the City Manager.

2. Term.

The term of the Agreement shall be from the date last below executed until terminated by either party in accordance with the provisions set forth in Paragraph 6 or until terminated by the event of retirement, death or permanent disability of EMPLOYEE.

3. Salary.

(a) CITY agrees that EMPLOYEE's initial pay will be \$7,266 per month, as salary for her services, payable in installments at the same time as other employees of the CITY are paid and subject to customary withholding.

(b) Effective January 1, 2012 the EMPLOYEE will receive a cost of living increase based on the average San Francisco – Oakland – San Jose Consumer Price Index (all urban consumers) reported CPI for December 2010, February 2011, April 2011, June 2011, August 2011, and October 2011. If the resulting figure for averaged CPI is greater than 0%, that figure shall be used as the percentage for salary increase for EMPLOYEE, effective January 1, 2012.

(c) Thereafter pay increases for this position are not automatic and are at the discretion of the City Council upon recommendation by the City Manager.

4. Resignation and Termination.

(a) EMPLOYEE may resign at any time and agrees to give CITY at least 30 days advance written notice of the effective date of her resignation.

(b) The City Manager may at any time terminate EMPLOYEE upon 30 days advance written notice.

(c) The parties recognize and affirm that: (1) EMPLOYEE is an "at will" EMPLOYEE whose employment may be terminated by the City Manager, with or without cause, and (2) there is no expressed or implied promise made to EMPLOYEE for any form of continued employment. This Agreement is the sole and exclusive basis for an employment relationship between EMPLOYEE and CITY and its terms supersede any and all rules, regulations, guidelines, or other express or implied terms that would otherwise be applicable to employment by the CITY, including but not limited to any CITY personnel rules.

(d) In recognition of EMPLOYEE's professional status and integrity, EMPLOYEE and the City Manager shall make every effort to prepare a joint public statement when termination is confirmed. This employment relationship is based on the mutual respect between the parties and a desire to maintain the highest degree of professionalism. In communicating with third parties about the parties' employment relationship and the circumstances under which it may have been severed, the parties shall (1) protect and advance their mutual respect and professionalism, and (2) refrain from making statements that would negatively impact either party.

(e) The EMPLOYEE may choose to resign her office instead of being terminated if agreed to by the City Manager. In such an event, the public announcement as provided for in Paragraph 6(d) above will note EMPLOYEE has resigned and Paragraph 7 remains applicable.

7. Severance Pay.

If EMPLOYEE is terminated by the City Manager while still willing and able to perform the duties of Administrative Services Director, CITY agrees to pay EMPLOYEE a cash payment equal to four (4) months' salary and the CITY's cost of four (4) months Flex Plan benefits. Additionally, EMPLOYEE shall receive payment for all vacation leave accrued to the date of separation. Said cash payments may be paid, at the option of the EMPLOYEE, in (1) lump sum upon date of termination; (2) lump sum on January 1 of the calendar year following termination; or (3) in two equal payments, the first payment upon date of termination, and the second on January 1 of the calendar year following termination. Such payment will release CITY from any further obligations arising out of the employment.

Provided, however, if EMPLOYEE is terminated because of conviction of any criminal offense involving moral turpitude, or discharged "for cause" following administrative due process proceedings, then CITY shall have no obligation to continue the employment of EMPLOYEE or to pay the severance (except accrued vacation leave) set forth in this paragraph.

8. Administrative Leave Accrual

As an exempt employee, the Administrative Services Director is entitled to 80 hours per calendar year of administrative leave, except that for the remainder of calendar year 2011 she will, as of her first day of employment, carry over 16.5 hours of administrative leave.

In addition, as this position is funded in the City's budget at 95% time, and the salary contained in Section 3 herein reflects that level of funding, EMPLOYEE shall receive an additional 104 hours of administrative leave, for an annual total allocation of 184 hours of administrative leave.

Administrative leave is non-cumulative, and may not be converted to cash.

9. Personal Holidays

All regular positions are entitled to three (3) personal holidays per calendar year. Unused Personal Holidays are not cumulative.

10. Vacation

Recognizing that EMPLOYEE is in her 9<sup>th</sup> year of employment with the City, EMPLOYEE will continue to accrue at that rate as identified below. Commencing on January 22, 2012 EMPLOYEE will begin her 10<sup>th</sup> year of employment and will therefore accrue 22 days per year and each year thereafter vacation accruals will be based on an anniversary date of January 22.

Employer acknowledges that as of June 11, 2011, EMPLOYEE has accumulated 264.68 vacation hours to which EMPLOYEE shall remain entitled subject to the provisions of Section 10. These hours will also be subject to accrual and use until EMPLOYEE assumes the position of Administrative Service Director at which time the balance as may have been properly adjusted will transfer to EMPLOYEE'S benefit as Administrative Service Director.

Vacation Accrual Rate

Vacation accrues on a prorated basis, based upon a 30-day month. The rates of accrual are as follows:

<u>Years of Employment</u>	<u>Vacation Days</u>
1 and 2	12
3 and 4	14
5 through 9	17
10 through 19	22
20 and higher	27

- (a) Upon termination, EMPLOYEE shall be paid for all accumulated vacation to her separation date, at a rate equal to 100% of her then current hourly pay rate.
- (b) Vacation - Cap. If EMPLOYEE has accumulated more than 360 hours of vacation as of the last pay period in April of any year, she shall be paid in cash at a rate equal to 100% of her current hourly pay rate for all hours in excess of 360. The payment will be included with the paycheck for the first pay period in May.
- (c) Optional Vacation Cash Out: In any calendar year, an EMPLOYEE may cash out up to 80 hours of accumulated vacation.

11. Sick Leave Accrual.

Sick leave shall accrue at the rate of twelve days per calendar year. Employer acknowledges that as of the end of the pay period June 11, 2011, EMPLOYEE has accumulated 291.61 hours of sick leave to which EMPLOYEE shall remain entitled subject to the provisions of this section. These hours will also be subject to accrual and use until EMPLOYEE assumes the position of Administrative Service Director, at which time the balance as may have been properly adjusted will transfer to EMPLOYEE'S benefit as Administrative Service Director. There is no right to cash out accumulated sick leave at termination of employment.

12. Sick Leave-Family Care

Sick leave may be used to care for members of the immediate family in accordance with the FMLA and CFRA, or as approved by the City Manager.

13. Flexible Spending Arrangement Contributions

EMPLOYEE shall be entitled to the same Flexible Spending benefits as are provided in the CITY'S MOU with the Confidential Employees Unit.

Employees who can verify to the City's satisfaction that: they have equivalent health coverage for medical (including dental & vision) provided through their spouse, which will remain in effect until the next enrollment date; or who purchase a CalPERS Health Plan and dental and vision coverage, but do not use their entire monthly contribution, may use the remaining funds to purchase benefits other than medical (including dental & vision) coverage or take this amount in cash. (If a cash payment is taken, it is not included in the EMPLOYEE's compensation for the CalPERS retirement plan.)

The City reserves the option of adding additional programs to the cafeteria plan, as they may become available.

#### 14. PERS

CITY participates in the Public Employees Retirement System (PERS) operated by the State of California. EMPLOYEE shall be entitled to the same PERS benefits as are provided in the CITY's contract with PERS for miscellaneous members. Currently the CITY Miscellaneous Group has a 2.5% @ 55 program, one year final compensation, credit for unused sick leave option, military service credit as public service and employees cost sharing cost of additional benefits. The provisions of Resolution No. 3627, regarding employer-paid member contributions and the reporting thereof, are applicable to EMPLOYEE.

Non sworn employees (including the Administrative Services Director) are required to pay any PERS cost amount in excess of the 16.488 % cap.

In connection with the implementation of the PERS 2.5% at 55 plan, the City also amended its contract with PERS to modify the employee member paid contribution (EMPC) from 7.0% to 8.0%.

#### 15. Accruals after Date of Separation

An EMPLOYEE's separation date is the last date actually worked, except that an EMPLOYEE who, as of the last day worked, has not used all of her yearly allotment of vacation may extend the separation date by the number of days necessary to reach the full yearly allotment. "Yearly allotment" means the amount of vacation that the EMPLOYEE was entitled to accrue in her last year of employment. Unless otherwise provided by state law, none of the following accrue after the date of separation: sick leave, vacation, personal holidays, holiday pay, administrative leave, Flex Plan contributions as described in Section 13, or payment of the insurance premiums described in Section 22.

16. HOLIDAYS: EMPLOYEE shall be granted twelve (12) holidays annually. The holidays to be observed are set forth below. To the extent that the City's bargaining unit MOU's should in the future be amended to revise the City's holiday schedule, this Agreement shall be deemed automatically amended to reflect the revised holiday schedule.

Independence Day  
Labor Day  
Columbus Day  
Veterans Day  
Thanksgiving Day  
Friday Following Thanksgiving  
Christmas Day  
New Years Day  
Martin Luther King Day  
Lincolns Birthday  
Presidents Day  
Memorial Day

Holidays listed above occurring on a Saturday shall be observed on Friday. Holidays listed above occurring on a Sunday shall be observed on Monday.

In addition, when City Hall is closed for one week during the Christmas holidays EMPLOYEE shall be permitted to use vacation, administrative leave or sick leave in order not to lose compensation.

17. Mileage Reimbursement

EMPLOYEES required to use their personal vehicles while on City business will be reimbursed at the rate set by the Internal Revenue Service.

18. Bereavement Leave

Leave of absence with pay because of death in the immediate family of an EMPLOYEE shall be granted for a period not to exceed three days. Entitlement to leave of absence under this section shall be in addition to any other entitlement for sick leave, or any other leave. For purposes of this section, "immediate family" means mother, step-mother, father, step-father, husband, wife, son, step-son, daughter, step-daughter, brother, sister, foster parent, foster child, brother-in-law, sister-in-law, mother-in-law, father-in-law and grandparents.

19. FMLA and CFRA

The City shall follow the provisions provided for family leave as specified in the federal Family & Medical Leave Act of 1993 (FMLA), and the California Family Rights Act (CFRA) as they apply to public employers.

20. Drug Policy

The City is implementing its "Drug Free Workplace Policy."

21. FLSA

This employment is covered by appropriate sections of the Fair Labor Standards Act of 1935, and is specifically subject to Rule No. 54.118 (salaried executive employees are not paid at a higher rate for what might otherwise be labeled "overtime", correspondingly, their salary is not reduced "for any week in which she performs any work without regard to the number of days or hours worked." Accordingly, bi-weekly time sheets will not result in adjustments to the compensation for the period, but merely for yearly evaluation of whether the position is, after factoring in administrative leave, over or under staffed. However, time off for sick leave purposes shall be reported and reflected in the accumulated sick leave calculations. Reasonable time off for family bereavement is expected.

22. Legal Defense

Except as provided in Government Code Section 995.2, CITY shall provide a defense including but not limited to legal counsel in: a) any civil action or proceeding described in Government Code Section 995; b) any administrative action or proceeding described in Section 995.6; or any criminal action or proceeding described in Government Code Section 995.8. "Proceeding" as used in this section is applicable to situations where a claim or action is threatened, but not filed, if a reasonable, prudent person would consult or retain counsel in response to the possibility of actual civil, administrative, or criminal action. If CITY pays for a defense, but a court or tribunal issues a final ruling that would, under Section 995.2, preclude City payments for defense, EMPLOYEE shall immediately reimburse CITY, and if she fails to do so, CITY may offset any such amounts against compensation otherwise due EMPLOYEE under this contract.

23. Insurance.

CITY, at its expense, will provide the same long term life insurance and disability insurance (paid by CITY) as is generally available to all regular non sworn city employees.

24. Amendment.

This Agreement may be amended, modified, or changed by the parties provided that said amendment, modification or change is in writing and approved by both parties.

25. Notice.

All notices required herein shall be sent first class mail to the parties as follows:

To CITY:                      City of Capitola  
   420 Capitola Avenue  
   Capitola, CA 95010

To EMPLOYEE:              *TO BE PROVIDED BY EMPLOYEE*

Notices shall be deemed effectively served upon deposit in the United States mail.



26. Authority to Work in the United States.

EMPLOYEE represents, under penalty of perjury, that she is authorized to work in the United States. In accordance with Section 274A (8 USC 1324) of the Immigration Reform and Control Act of 1986 before this Agreement can become effective, EMPLOYEE must provide documentary evidence to CITY consistent with the Act, that she is legally entitled to work in the United States, and must execute the verification required by that Act.

27. Entire Agreement.

This Agreement contains the entire agreement between the parties hereto. No promise, representation, warranty, or covenant not included in this Agreement has been or is relied on by any party hereto. This Agreement may only be amended by written instrument signed by EMPLOYEE and the CITY.

28. Severability.

If any provision of this Agreement is invalid or unenforceable, it shall be considered deleted here from and the remainder of the provision and of this Agreement shall be unaffected and shall continue in full force and effect.

29. Headings and Captions.

The headings and captions appearing in this Agreement are inserted only as a matter of convenience and in no way limit or affect the substantive terms of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date written below.

**CITY OF CAPITOLA**

Date \_\_\_\_\_

\_\_\_\_\_  
Jamie Goldstein, City Manager**EMPLOYEE**

Date \_\_\_\_\_

\_\_\_\_\_  
Lisa Murphy



Item #: 3.I.

## CITY COUNCIL AGENDA REPORT

MEETING OF JUNE 23, 2011

FROM: CITY MANAGER'S DEPARTMENT

DATE: JUNE 9, 2011

SUBJECT: FIRST AMENDMENT TO THE AGREEMENT FOR CITY ATTORNEY SERVICES WITH  
ATCHISON, BARISONE, CONDOTTI & KOVACEVICH

---

**Recommended Action:** By motion and roll call vote, approve the First Amendment to Agreement for City Attorney Services with Atchison, Barisone, Condotti & Kovacevich in the amount of \$133,560 for FY2011-12.

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### **BACKGROUND**

In FY01-02, the City transitioned from an in-house staff City Attorney to a contract City Attorney with John G. Barisone from the law firm of Atchison, Barisone, Condotti & Kovacevich (Firm) for general and special legal services. The current contract will expire on June 30, 2011, and the Firm has proposed a one-year contract with no change in compensation from the FY10-11 amount.

### **DISCUSSION**

The legal firm of Atchison, Barisone, Condotti & Kovacevich has been providing full time City Attorney services since 2001. Mr. Barisone has submitted a contract proposal for a term of one year at the same rates. In FY08-09, the contract amount was \$140,000 per year, but when the City implemented the furlough program which was a 4.6% salary reduction, the firm also accepted the 4.6% reduction, resulting in an amended contract in the amount of \$133,560. This contract incorporates the reduction from the previous contract. The retainer fee includes attendance at City Council meetings and other meetings as requested; office hours at City Hall; day to day legal work required by the various departments; assistance to the City Council; and participation in various training programs.

Additionally, the firm provides special legal services at a current rate of \$225 per hour for attorneys and \$85 per hour for paralegals. Special legal services are composed of: litigation, arbitration, mediation or hearings commenced or defended by the City, civil or administrative municipal code enforcement, criminal municipal code prosecutions. These services are provided only upon assignment by the City Council or City Manager.

### **FISCAL IMPACT**

The ongoing fiscal impact would be \$133,560 per year for general legal services which is contained in the proposed FY11-12 Budget.

### **ATTACHMENT**

First Amendment to Agreement for City Attorney Services

**Report Prepared By:** Lisa G. Murphy  
Assistant to the City Manager

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

**FIRST AMENDMENT TO AGREEMENT FOR CITY ATTORNEY SERVICES**

THIS FIRST AMENDMENT TO AGREEMENT FOR CITY ATTORNEY SERVICES is made and entered into this first day of July, 2011, by and between the City of Capitola, a municipal corporation, hereinafter referred to as "City" and Atchison, Barisone, Condotti & Kovacevich, a professional corporation, hereinafter referred to as "Law Firm" and is made with reference to, and will serve to amend, that certain agreement for legal services entered into on or about July 1, 2010, between the City and Law Firm pursuant to which Law Firm agreed to provide legal services to the City for the 2010/2011 fiscal year (hereinafter referred to as the "2010/2011 Agreement").

NOW, THEREFORE, the parties agree as follows:

1. Paragraph 2 of the 2010/2011 Agreement is hereby amended to read as follows:
- “2. The term of this Agreement shall commence on July 1, 2011, and shall continue through June 30, 2012. Accordingly, the remaining term of this Agreement shall cover one fiscal year. For fiscal year 2011/2012, the annual compensation amounts and rates specified elsewhere in this Agreement shall remain in full force and effect.”
2. Except as hereby expressly amended, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this First Amendment to the 2010/2011 Agreement for City Attorney Services the day and year first written above.

“CITY”

CITY OF CAPITOLA,  
a Municipal Corporation

By: \_\_\_\_\_  
Jamie Goldstein, City Manager

“LAW FIRM”

ATCHISON, BARISONE,  
CONDOTTI & KOVACEVICH,  
a Professional Corporation

By: \_\_\_\_\_  
John G. Barisone



## REDEVELOPMENT AGENCY AGENDA REPORT

MEETING OF JUNE 23, 2011

FROM: DEPUTY EXECUTIVE DIRECTOR

DATE: JUNE 11, 2011

SUBJECT: APPROVE REDEVELOPMENT AGENCY CONTRACT WITH CAROLYN FLYNN FOR PROFESSIONAL SERVICES RELATED TO ADMINISTRATION OF THE AFFORDABLE HOUSING AND ECONOMIC DEVELOPMENT PROJECTS IN FY 2011/12

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**Recommended Action:** By motion and roll call vote, approve a sole source contract with Carolyn Flynn for an amount not to exceed \$15,000 for FY 2011/12 for professional services related to RDA Affordable Housing Programs and RDA Economic Development projects.

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### **BACKGROUND**

Carolyn Flynn has provided professional planning and grant development consulting services to the Agency since 1997. She has worked on many of the City's affordable housing projects, including the Habitat for Humanity project on 38<sup>th</sup> and Brommer, the Loma Vista Mobilehome Park resident purchase, and Wharf Road Manor resident purchase. She has provided technical assistance on the Agency's affordable housing programs, including the housing Rehabilitation Program, and the First Time Homebuyer program. She also provided technical assistance on the development and adoption of the City's Inclusionary Ordinance, first adopted in 2004. Her recent work has included the development of a monitoring program for the City's affordable housing owner-occupancy requirements, annual monitoring at Wharf Road and Loma Vista mobile home parks, and the development of a variety of legal documents for the City's affordable housing Rehabilitation Program.

Since 2005, Ms. Flynn has also worked on a variety of Economic Development activities. She wrote and provided planning assistance for the Community Development Block Grant (CDBG) funded Economic Development Strategic Plan, and was instrumental in securing several other Economic Development grants. This past year, Ms. Flynn helped to write two new CDBG PTA grant applications for a total of \$140,000 to fund the Capitola Village Hotel study and the City Hall/Pacific Cove Area Plan. Ms. Flynn will continue to manage the economic development grants, and the development of new economic development grant applications. Ms. Flynn has a valuable depth of experience with Capitola's housing and economic development programs, and excellent, versatile professional and technical skills.

### **DISCUSSION**

The contract with consultant Carolyn Flynn is for professional services for FY 2011/12 in an amount not to exceed \$15,000. The contract is a standard form agency contract for professional services, as approved by the Agency Attorney. Services to be performed under this contract will include: professional and technical services, and development of grant applications related to RDA affordable housing programs, professional and technical services related to RDA economic development projects, and assistance with other redevelopment and housing projects as needed and directed by the Community Development Director.



**Sole Source Purchases Determination  
Carolyn Flynn, \$15,000.00, July 1, 2011**

**BACKGROUND:** The City of Capitola Purchasing and Procurement Policy (Administrative Policy III-4), Section II B and C requires telephone quotes for purchases between \$2,000 - \$10,000, and requires a formal RFP bid procedure for purchases over \$10,000. The policy conditions for Sole Source (Section II B1 and B2), which are purchases exempt from the competitive process.

**DISCUSSION:** The contract with **Carolyn Flynn**, in the amount of \$15,000.00, dated **July 1, 2011**, is a qualified sole source purchase within the City Administrative Policy III-4 Section B2 (check one of the following)

**Policy Section B1: Materials, Supplies & Equipment:**

\_\_\_\_\_ (a ) Definition. Sole source purchases are used where no secondary source is reasonably available precluding the use of a competitive process.

**Policy Section B2: Consultant or General Services:**

\_\_\_\_\_ (a.) In the case where a consulting firm has satisfactorily performed the previous stage of a project (e.g. a pre-design), or has acquired extensive background and working knowledge, the firm may be selected for follow- up work without solicitations from other firm upon written justification and recommendation of the department head and approval by the City Manager or designee.

  X   (b.) If a firm is a highly recognized authority in a field or specialty, or has unique specific knowledge regarding the project, then the firm may be selected without other solicitations for contracts and upon written justification and recommendation of the department head and approval by the City Manager or designee.

\_\_\_\_\_ (c.) Upon those infrequent occasions when confidence in the consultant and quality of service are important.

Carolyn Flynn's experience and knowledge in administering the City's CDBG Programs since 1997 provides her with an understanding of the City's programs and activities that provides the City with consistency in monitoring and administration of the CDBG Programs.

Dept Head	Date	City Manager	Date
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Item #: **3.K.**

## CITY COUNCIL AGENDA REPORT

MEETING OF JUNE 23, 2011

FROM: COMMUNITY DEVELOPMENT DIRECTOR

DATE: JUNE 2, 2011

SUBJECT: APPROVE CONTRACT WITH CAROLYN FLYNN FOR PROFESSIONAL SERVICES RELATED TO COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM ADMINISTRATION AND IMPLEMENTATION OF THE CITY'S COMMUNITY DEVELOPMENT GRANTS

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**Recommended Action:** By motion and roll call vote, approve proposed sole source contract with Carolyn Flynn for an amount not to exceed \$20,336 for FY 2011/12 for assistance with the City's Economic Development, Environmental Sustainability and Flood Relief grants and overall administration of the City's Community Development Block Grant (CDBG) Program.

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### **BACKGROUND**

Carolyn Flynn has provided consulting assistance with the City's Community Development Block Grant (CDBG) Program since September 1997. Her services have included writing grant applications, administration of grants, preparation and submittal of quarterly and annual reports, grant closeout activities, and CDBG Program Income tracking and oversight. Ms. Flynn has provided outstanding consulting services, has managed several successful on-site monitoring visits from CDBG and other state agencies, and had excellent professional relationships with CDBG and other funding agency staff members.

In addition to writing and administering the City's Economic Development grants, Ms. Flynn has provided professional project management and planning assistance to the City on a wide variety of economic development planning projects. She provided project management for the City's CDBG-funded Economic Development Strategic Plan, the Village Parking Study, the 41<sup>st</sup> Avenue Comprehensive Plan and the City Hall Site Re-Use Study. She is currently managing two CDBG grants which brought in \$70,000 as part of the General Plan Update process: the 41<sup>st</sup> Avenue/Capitola Mall Re-Visioning Plan and the Green Economy/Jobs Study.

This past year, Ms. Flynn helped to write several new grants. These included a \$100,000 successful application to the Strategic Growth Council for a Prop 84 grant to fund Sustainability in the General Plan Update and two new CDBG PTA grant applications for a total of \$140,000 to fund the Capitola Village Hotel study and the City Hall/Pacific Cove Area Plan. She is currently preparing an application for \$250,000 under the CDBG Disaster Recovery Initiative Program, to fund the City's Local Hazard Mitigation Plan and the Safety Element of the General Plan Update. Ms. Flynn also provided strategic assistance on state and federal funding for flood disaster relief during the initial days of the flood emergency.

**DISCUSSION**

The contract with consultant Carolyn Flynn is for professional services for FY 2011/12 in an amount not to exceed \$20,336. The contract is a standard form City contract for professional services, as approved by the City Attorney. Services to be performed under this contract include: Grant administration and professional technical services for the following grants:

- The 41<sup>st</sup> Avenue/Capitola Mall Re-Visioning Plan,
- Green Economy/Study,
- Overall CDBG Program Administration
- Prop 84 General Plan Sustainability Grant Management
- AMBAG Liveable Cities Grant Management

Ms. Flynn will be responsible for CDBG quarterly reporting and annual submittals, as well as professional assistance to ensure that the technical studies and Final Reports meet CDBG grant requirements. Other duties include overall administration and coordination of the City’s FY 11/12 CDBG Program, including management of Program Income, grant writing for future CDBG applications; management of the new Prop 84 and AMBAG grants in connection with the General Plan Update.

Ms. Flynn’s knowledge of the City’s CDBG Program and with existing and new grants, as well as her unique previous knowledge of the City’s Community Development Department, provides her with the required experience that no other consultant can provide without first spending a significant amount of time to learn about the City’s financial processes, existing CDBG grant agreements, federal reporting requirements, and community and economic development projects.

**FISCAL IMPACT**

The funding for this contract is available from CDBG grants, CDBG Program Income, and matching funds from the General Plan Fund, as noted below.

Task		Project/Fund	Fund	FY 10/11 Contract	Proposed FY 11/12
1	<b>C D</b>	<b>41<sup>st</sup> Avenue/Capitola Mall Re-Visioning Plan</b>			
		CDBG Grants	1350	\$1,464	\$864 (carryover)
		General Plan Fund	1313	\$3,850	\$2200 (carryover)
		<i>Grant Administration and Project Management</i>			
2	<b>E F</b>	<b>Green Economy/Carbon Emissions Inventory</b>			
		CDBG Grants	1350	\$1,463	\$763 (carryover)
		General Plan Fund	1313	\$3,660	\$2209 (carryover)
		<i>Grant Administration and Project Management</i>			
3	<b>G</b>	<b>10/11 CDBG Program Management</b>			
		CDBG Program Income	1351	\$3,000	\$3000
		<i>Manage City’s CDBG Program</i>			
4		<b>Misc. Grant Assistance</b>			
		CDD Professional Services			
		<i>ED &amp; Flood Recovery Grant Assistance</i>	1313	\$11,300	



5	<b>Prop 84/ General Plan Update Sustainability Grant Mngt.</b> <i>Grant Administration and Management</i>			\$6,300
6	<b>AMBAG Grant Management</b> <i>Grant Administration and project management for Sustainability Grants</i>			\$5,000
<b>TOTAL</b>			<b>\$24,737</b>	<b>\$20,336</b>

**ATTACHMENT**

Sole Source Purchases Determination

**Report Prepared By:** Derek Johnson  
Community Development Director

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

**Sole Source Purchases Determination  
Carolyn Flynn, \$20,336.00, July 1, 2011**

**BACKGROUND:** The City of Capitola Purchasing and Procurement Policy (Administrative Policy III-4), Section II B and C requires telephone quotes for purchases between \$2,000 - \$10,000, and requires a formal RFP bid procedure for purchases over \$10,000. The policy conditions for Sole Source (Section II B1 and B2), which are purchases exempt from the competitive process.

**DISCUSSION:** The contract with **Carolyn Flynn**, in the amount of \$20,336.00, dated **June 23, 2011** is a qualified sole source purchase within the City Administrative Policy III-4 Section B2 (check one of the following)

**Policy Section B1: Materials, Supplies & Equipment:**

\_\_\_\_\_ (a) Definition. Sole source purchases are used where no secondary source is reasonably available precluding the use of a competitive process.

**Policy Section B2: Consultant or General Services:**

\_\_\_\_\_ (a.) In the case where a consulting firm has satisfactorily performed the previous stage of a project (e.g. a pre-design), or has acquired extensive background and working knowledge, the firm may be selected for follow- up work without solicitations from other firm upon written justification and recommendation of the department head and approval by the City Manager or designee.

  X   (b.) If a firm is a highly recognized authority in a field or specialty, or has unique specific knowledge regarding the project, then the firm may be selected without other solicitations for contracts and upon written justification and recommendation of the department head and approval by the City Manager or designee.

\_\_\_\_\_ (c.) Upon those infrequent occasions when confidence in the consultant and quality of service are important.

Carolyn Flynn's experience and knowledge in administering the City's CDBG Programs since 1997 provides her with an understanding of the City's programs and activities that provides the City with consistency in monitoring and administration of the CDBG Programs.

Dept Head	Date	City Manager	Date



## CITY COUNCIL AGENDA REPORT

**MEETING OF JUNE 23, 2011**

FROM: CITY TREASURER

DATE: JUNE 14, 2011

SUBJECT: TREASURER'S REPORT FOR THE MONTH ENDED MAY 31, 2011  
(UNAUDITED)

**Recommended Action:**

By motion, that the City Council accept the May 2011 Treasurer's Report (unaudited) for the City of Capitola.

**BACKGROUND**

California Government Code Section 41004 requires that the City Treasurer submit to the City Clerk and the legislative body a written report and accounting of all receipts, disbursements, and fund balances.

The attachment provides various financial data and analysis for the City of Capitola funds, and the State Treasurer's Office (Local Agency Investment Fund) "LAIF" interest rates.

**DISCUSSION - EXECUTIVE SUMMARY AT MAY 31, 2011**

The City Cash Position at May 31, 2011 totals \$5,949,500. LAIF deposits include \$5,365,200 of City and Assessment District Funds. The LAIF investment return as of May 31, 2011 was .413%.

The General Fund Balance Sheet consists of:

Total Assets	\$3,693,800 (includes Rispin receivable of \$1,350,000)
Total Liabilities	\$2,360,600
Total Fund Balance	\$1,333,200 (includes Rispin receivable of \$1,350,000)

Fund Balance

General Fund	\$ 1,333,200
Designated Reserves:	1,691,100
Capital Improv. Projects	1,320,100
Special Revenues:	1,199,200
Debt Service	417,600
Internal Services:	1,060,900
<b>Total</b>	<b>\$ 7,022,100</b>

**FISCAL IMPACT:** None.

**ATTACHMENTS** - 1) May 31, 2011 City Treasurer's Report and 2) LAIF rates

**Report Prepared By:**

**Reviewed and Forwarded By:**

\_\_\_\_\_  
Lisa Saldana  
Supervising Accountant

\_\_\_\_\_  
Jacques Bertrand, City Treasurer

cc: cdiac\_investments@treasurer.ca.gov (June & December reports only, within 60 calendar days)  
R:Agenda Staff Report/6-23-11/City Treasurer Report for Month Ended 5-31-11



## Treasurer's Report for Month Ended May 31, 2011

### **BACKGROUND**

California government code section 41004 requires that the City Treasurer submit to the City Clerk and the legislative body a written report and accounting of all receipts, disbursements, and fund balances. Additionally with the passage of Chapter 687, Statutes of 2000 (AB 943 Dutra), effective January 1, 2001 cities are now required to forward copies of their second and fourth quarter calendar year investment portfolio reports to the California Debt and Investment Advisory Commission (CDIAC) within 60 days.

The CDIAC will use the report as an additional opportunity to examine public investment practices in a more consistent basis than before.

Cities, such as the City of Capitola, that are 100 percent invested in the Local Agency Investment Fund (LAIF) are exempt from the new investment portfolio reporting requirements and are only required to send a letter to CDIAC indicating the total and composition of their investments. This Treasurer's Report will satisfy our reporting requirement to the CDIAC.

The following pages provide various financial data and analysis for the City of Capitola's Funds collectively as well as specifically for the City's General (Operating) Fund, with an attachment from the State Treasurer's Office of quarterly LAIF rates from the 1<sup>st</sup> quarter of 1977 to present.

### **DISCUSSION**

The following information is for the month ended May 31, 2011. Such information is preliminary and unaudited.

**CASH BALANCE BY FUND**

As of May 31, 2011, the LAIF deposits include \$5,365,200 of City and Assessment District funds. The LAIF investment return as of May 31, 2011 was .413%. The following summarizes the City's total cash balance of \$5,949,500 at May 31, 2011 amongst the funds:

		May 31, 2011
<u>General Fund</u>		1,402,400
<u>Special Revenues</u>	S L E S F	14,800
	SCC NARCOTICS ENFORCEMENT TEAM	(9,000)
	GAS TAX	(74,900)
	WHARF FUND	45,200
	DEVELOPMENT FEES FUND	-
	PEG CABLE TV ACCESS FUND	86,500
	CAPITOLA VILLAGE & WHARF BIA	(100)
	GREEN BUILDING	47,800
	PARIING RESERVE FUND	169,300
	TECHNOLOGY FEE FUND	10,400
	CDBG - GRANTS	17,400
	CDBG PROGRAM INCOME	(11,900)
	CDBG PROGRAM INCOME 07-08 RLF	-
	HOUSING PROGRAM LOAN FUND	4,100
	HOME GRANT FUND	5,200
	AFFORDABLE HOUSING TRUST FUND	345,400
	BEGIN GRANT FUND	60,000
	PUBLIC ART FUND	137,400
	OPEN SPACE PURCHASE	300
	GENERAL PLAN UPDATE	362,600
<u>Internal Service</u>		
	WORIER'S COMPENSATION	56,500
	SELF INSURANCE	250,300
	STORES	14,100
	INFORMATION TECHNOLOGY	154,800
	EQUIPMENT REPLACEMENT	307,500
	PUBLIC EMPLOYEE RETIREMENT	278,800
<u>Reserves</u>		
	EMERGENCY RESERVES	336,400
	CONTINGENCY RESERVES	-
	COMPENSATED ABSENCES	107,500
<u>Capital Projects</u>		
	VARIOUS CAPITAL PROJECTS	1,410,700
<u>Debt Service</u>		
	DEBT SERVICE FUND	420,000
<b>TOTAL ALL FUNDS</b>		<b><u><u>5,949,500</u></u></b>
	<b>General Fund</b>	1,402,400
	<b>Internal Services</b>	1,062,000
	<b>Reserves</b>	443,900
		<b><u><u>2,908,300</u></u></b>

**GENERAL FUND SUMMARY BALANCE SHEET**

The following is the General Fund summary balance sheet:

<b>General Fund: Summary Balance Sheet</b>	<b>6/30/2010</b>	<b>Incr/Decr</b>	<b>5/31/2011</b>
Cash	274,700	1,127,800	1,402,500
Prepaid Expenditures	5,300	(2,400)	2,900
Accounts Receivable	72,100	30,000	102,100
Accounts Receivable - Intergovernmental <sup>1</sup>	43,100	175,200	218,300
Accounts Receivable for Year End <sup>2</sup>	1,149,300	(1,149,300)	-
Accounts Receivable - RDA (Rispin)	1,350,000	-	1,350,000
Short Term Loans - RDA	-	-	-
Long Term Loans - RDA	618,000	-	618,000
<b>TOTAL ASSETS</b>	<b>\$ 3,512,500</b>	<b>\$ 181,300</b>	<b>\$ 3,693,800</b>
Accounts Payable	383,800	(302,300)	81,500
Payroll Related Liabilities	329,300	(380,600)	(51,300)
Other Deposits and Other Liabilities	188,200	54,300	242,500
Deferred Revenue -- RDA	618,000	-	618,000
Deferred Revenue	346,800	(124,100)	222,700
Due to Contingency Reserve Fund	-	1,247,200	1,247,200
<b>TOTAL LIABILITIES</b>	<b>\$ 1,866,100</b>	<b>\$ 494,500</b>	<b>\$ 2,360,600</b>
<b>FUND BALANCE<sup>3</sup></b>			
Rispin Mansion Transaction	1,350,000	-	1,350,000
Fund Balance Reserves	15,200	-	15,200
Available Fund Balance:			
Prior Year Fund Balance	393,000	-	393,000
Current Year Operating Results	-	(425,000)	(425,000)
Net, Available Fund Balance	<b>\$ 393,000</b>	<b>\$ (425,000)</b>	<b>\$ (32,000)</b>
<b>TOTAL FUND BALANCE</b>	<b>\$ 1,758,200</b>	<b>\$ (425,000)</b>	<b>\$ 1,333,200</b>

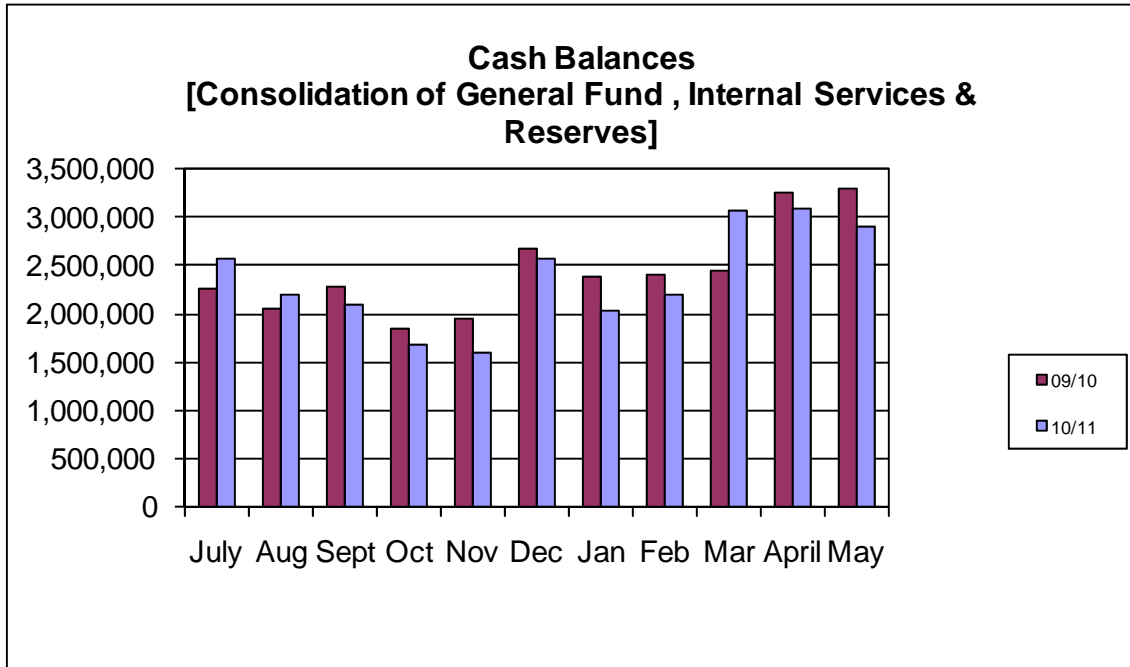
<sup>1</sup> A/R-Intergovernmental is primarily for State Mandated Cost Reimbursements.

<sup>2</sup> A/R for Year-End is for prior year-end revenues with cash received in July or August 2010 of new fiscal year.

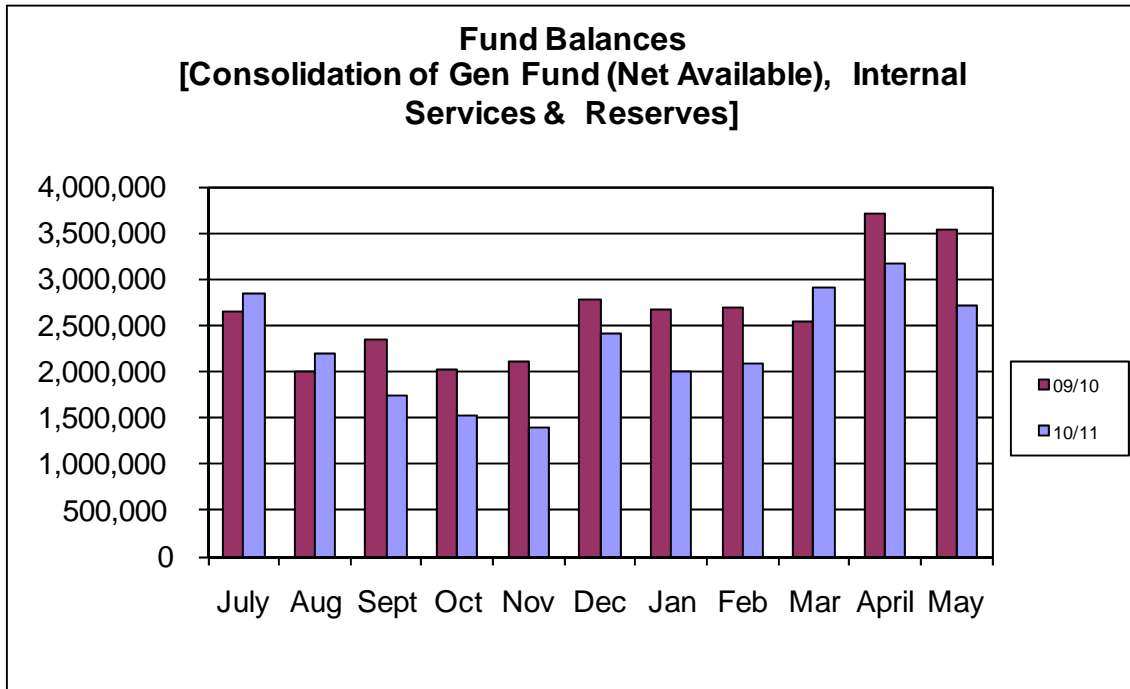
<sup>3</sup> Fund Balance is segregated for the amounts related to the Rispin Mansion Note Payable to the City and amount available.

**CASH BALANCE & FUND BALANCE**

The following graphs compare the monthly Cash and Fund Balance totals in the consolidated General Fund, Internal Service Funds, and Reserves for FY 09/10 and FY 10/11.



May 31, 2011 Total= \$2,908,300: Gen Fund= \$1,402,400, Internal Service= \$1,062,000, Reserves= \$443,900



May 31, 2011 Total= \$2,720,000: Gen Fund= (\$32,000), Internal Service= \$1,060,900, Reserves= \$1,691,100

**CHANGES IN TOTAL FUND BALANCE**

This table presents the ending Fund Balances for the City's major fund types. (It excludes agency funds where the City acts merely as a third party custodian of an outside party's funds.)

	<b>Beginning Fund Balance: 7/01/10</b>	<b>Incr/(Decr) July-Apr</b>	<b>Revenue</b>	<b>Expenditure</b>	<b>Interfund Transfers</b>	<b>Unaudited Fund Balance: 5/31/11</b>
<b>General Fund: Rispin</b>	1,350,000	-		-	-	1,350,000
<b>General Fund: Reserved</b>	15,200	-		-	-	15,200
<b>General Fund: Available</b>	393,000	(142,800)	479,900	(762,100)	-	(32,000)
<b>Designated Reserves:</b>	-					-
Emergency Reserves @ 5%	627,100	(182,200)	0	(108,500)	-	336,400
Compensated Absences	116,900	23,100	0	(32,500)	-	107,500
Contingency Reserves @10%	1,247,200	-	0	0	-	1,247,200
	-					-
<b>Capital Improv. Projects:</b>	418,600	932,700	0	(31,500)	-	1,319,800
Open Space Purchase	300	-	0	0		300
<b>Special Revenues:</b>	-					-
Gas Tax	64,600	(142,800)	17,300	(13,200)	-	(74,100)
Law Enforcement Grants	1,100	14,800	0	(10,100)	-	5,800
PEG Cable TV Access	82,800	(1,100)	4,700	0	-	86,400
Capitola & Wharf BIA	7,500	100	100	(1,500)	-	6,200
Development Fees	(1,400)	-	0	0	-	(1,400)
Wharf Fund	38,100	17,000	7,400	(10,700)	-	51,800
Green Building	45,400	2,400	0	0	-	47,800
Parking Reserve Fund	78,700	90,500	0	0	-	169,200
Technology Fee Fund	3,900	6,100	400	0	-	10,400
CDBG-Grants (Reimburseme	34,000	(800)	0	(10,900)	-	22,300
CDBG - Program Income	(17,800)	2,400	0	0	-	(15,400)
CDBG - Prog Inc 07-08 RLF	5,200	(5,200)	0	0	-	-
HOME Program Re-Use	5,100	(2,000)	1,000	0	-	4,100
HOME Grant Fund	(7,500)	12,700	0	0	-	5,200
Affordable Housing Trust	367,800	(22,300)	0	(100)	-	345,400
Begin Grant Fund	60,000	-	0	0	-	60,000
Public Art Program	162,800	(25,300)	0	0	-	137,500
General Plan Maintenance	599,300	(236,600)	1,500	(26,200)	-	338,000
<b>Debt Service:POB</b>	468,100	(84,300)	33,800	0	-	417,600
<b>Internal Services:</b>	-	-				-
Equipment Replacement	282,500	22,100	0	2,900	-	307,500
Information Technology	141,400	18,300	0	(5,500)	-	154,200
Public Employee Retirement	520,400	(238,100)	109,700	(113,100)	-	278,900
Self-Insurance Liability	253,900	1,400	0	(5,000)	-	250,300
Stores	25,200	(7,500)	0	(4,200)	-	13,500
Worker's Compensation	174,900	(118,400)	0	0	-	56,500
	-					-
	-					-
<b>TOTAL CITY</b>	<b>7,564,300</b>	<b>(65,800)</b>	<b>655,800</b>	<b>(1,132,200)</b>	<b>-</b>	<b>7,022,100</b>



General Fund Balance: Fund Balance is segregated for: the amounts related to the Rispin Mansion Note Payable to the City, the amount reserved for disabled parking, and amount available.

General Fund Revenues: For the month ending May 31, 2011, total revenues were \$479,900 which included Sales Tax of \$342,200 (71%), and Transient Occupancy Tax of \$42,800 (8%).

General Fund Expenditures: For the month ending May 31, 2011, total expenditures were \$762,100 which includes Staffing for (2) pay periods of \$552,900 (72%), and Contract Services of \$158,300 which includes \$61,200 in legal services, (20%).

CDBG Grant Fund: This fund operates on a reimbursement basis. Therefore the balance will be negative as expenditures are incurred prior to reimbursement.

Internal Services: Internal Service Fund transactions consist of quarterly General Fund transfers and budgeted expenditures.



*Bill Lockyer*  
California State Treasurer

**Pooled Money Investment Account**

**PMIA Average Monthly Effective Yields**

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1977	5.770	5.660	5.660	5.650	5.760	5.850	5.930	6.050	6.090	6.090	6.610	6.730
1978	6.920	7.050	7.140	7.270	7.386	7.569	7.652	7.821	7.871	8.110	8.286	8.769
1979	8.777	8.904	8.820	9.082	9.046	9.224	9.202	9.528	9.259	9.814	10.223	10.218
1980	10.980	11.251	11.490	11.480	12.017	11.798	10.206	9.870	9.945	10.056	10.426	10.961
1981	10.987	11.686	11.130	11.475	12.179	11.442	12.346	12.844	12.059	12.397	11.887	11.484
1982	11.683	12.044	11.835	11.773	12.270	11.994	12.235	11.909	11.151	11.111	10.704	10.401
1983	10.251	9.887	9.688	9.868	9.527	9.600	9.879	10.076	10.202	10.182	10.164	10.227
1984	10.312	10.280	10.382	10.594	10.843	11.119	11.355	11.557	11.597	11.681	11.474	11.024
1985	10.579	10.289	10.118	10.025	10.180	9.743	9.656	9.417	9.572	9.482	9.488	9.371
1986	9.252	9.090	8.958	8.621	8.369	8.225	8.141	7.844	7.512	7.586	7.432	7.439
1987	7.365	7.157	7.205	7.044	7.294	7.289	7.464	7.562	7.712	7.825	8.121	8.071
1988	8.078	8.050	7.945	7.940	7.815	7.929	8.089	8.245	8.341	8.397	8.467	8.563
1989	8.698	8.770	8.870	8.992	9.227	9.204	9.056	8.833	8.801	8.771	8.685	8.645
1990	8.571	8.538	8.506	8.497	8.531	8.538	8.517	8.382	8.333	8.321	8.269	8.279
1991	8.164	8.002	7.775	7.666	7.374	7.169	7.098	7.072	6.859	6.719	6.591	6.318
1992	6.122	5.863	5.680	5.692	5.379	5.323	5.235	4.958	4.760	4.730	4.659	4.647
1993	4.678	4.649	4.624	4.605	4.427	4.554	4.438	4.472	4.430	4.380	4.365	4.384
1994	4.359	4.176	4.248	4.333	4.434	4.623	4.823	4.989	5.106	5.243	5.380	5.528
1995	5.612	5.779	5.934	5.960	6.008	5.997	5.972	5.910	5.832	5.784	5.805	5.748
1996	5.698	5.643	5.557	5.538	5.502	5.548	5.587	5.566	5.601	5.601	5.599	5.574
1997	5.583	5.575	5.580	5.612	5.634	5.667	5.679	5.690	5.707	5.705	5.715	5.744
1998	5.742	5.720	5.680	5.672	5.673	5.671	5.652	5.652	5.639	5.557	5.492	5.374
1999	5.265	5.210	5.136	5.119	5.086	5.095	5.178	5.225	5.274	5.391	5.484	5.639
2000	5.760	5.824	5.851	6.014	6.190	6.349	6.443	6.505	6.502	6.517	6.538	6.535
2001	6.372	6.169	5.976	5.760	5.328	4.958	4.635	4.502	4.288	3.785	3.526	3.261
2002	3.068	2.967	2.861	2.845	2.740	2.687	2.714	2.594	2.604	2.487	2.301	2.201
2003	2.103	1.945	1.904	1.858	1.769	1.697	1.653	1.632	1.635	1.596	1.572	1.545
2004	1.528	1.440	1.474	1.445	1.426	1.469	1.604	1.672	1.771	1.890	2.003	2.134
2005	2.264	2.368	2.542	2.724	2.856	2.967	3.083	3.179	3.324	3.458	3.636	3.808
2006	3.955	4.043	4.142	4.305	4.563	4.700	4.849	4.946	5.023	5.098	5.125	5.129
2007	5.156	5.181	5.214	5.222	5.248	5.250	5.255	5.253	5.231	5.137	4.962	4.801
2008	4.620	4.161	3.777	3.400	3.072	2.894	2.787	2.779	2.774	2.709	2.568	2.353
2009	2.046	1.869	1.822	1.607	1.530	1.377	1.035	0.925	0.750	0.646	0.611	0.569
2010	0.558	0.577	0.547	0.588	0.560	0.528	0.531	0.513	0.500	0.480	0.454	0.462
2011	0.538	0.512	0.500	0.588	0.413							



## CITY COUNCIL AGENDA REPORT

MEETING OF JUNE 23, 2011

FROM: DEPARTMENT OF PUBLIC WORKS

DATE: JUNE 15, 2011

SUBJECT: COASTAL WATERSHED COUNCIL STORM WATER REPORT ON 2010  
ACTIVITIES AND AWARD OF CONTRACT FOR 2011

---

**Recommended Action:** By motion and roll call vote, take the following actions:

1. Receive an oral report from Coastal Watershed Council staff on their 2010 Urban Watch-First Flush Program and education and outreach services performed for the City of Capitola as part of the City's Storm Water Management Program; and
  2. Award a contract to Coastal Watershed Council in the amount of \$15,000 for Storm Water Education and Outreach Services in 2011.
- 

### **BACKGROUND**

As part of the City's Storm Water Management Program (SWMP) the City has contracted with the Coastal Watershed Council (CWC) for the past nine years to participate in their Monterey Bay Regional Urban Watch & First Flush Monitoring program. The Urban Watch program monitors flow from various storm drains during the dry season. The First Flush program samples the storm flows from the first significant storm of the season when pollutant levels are at their highest. The information provided by these reports is vital in identifying pollutants and pollutant sources into the creek.

In addition to these monitoring programs, the City included in CWC's contract last year educational and outreach services to raise the storm water awareness in school aged children and provide educational efforts for community as required in the SWMP.

### **DISCUSSION**

A contract to the CWC for continued participation in the regional Urban Watch & First Flush program has already been approved for 2011. Staff is recommending the award of 2011 contract for the educational and outreach services to CWC for 2011.

CWC is an excellent partner for the City as they are able to collaborate with agencies throughout the Monterey Bay region on the development of these programs.

**FISCAL IMPACT**

The cost of the Storm Water Education and Outreach Services is \$15,000 and is covered in Public Works Street Contract Services NPDES program expenditures which has a budget of \$50,000 in 2011.

**ATTACHMENT**

Coastal Watershed Council proposal for Storm Water Education and Outreach

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

**Reviewed and Forwarded  
By City Manager:**

\_\_\_\_\_



May 31, 2011

Mr. Steve Jesberg, Director  
Public Works Department  
City of Capitola  
420 Capitola Ave.  
Capitola, CA 95010

Subject: Proposal for Stormwater Education and Outreach Services

Dear Steve:

Pursuant to your prior discussions on this topic with Coastal Watershed Council (CWC) staff, please accept this proposal to contract with the City of Capitola for Stormwater Education and Outreach Services. This proposal is intended to assist the City in complying with the relevant provisions of its Phase II Stormwater National Pollutant Discharge Elimination System (NPDES) permit. In particular, the proposed activities are designed to assist the City with implementation of its Stormwater Management Program (SWMP), especially Chapter Three, Public Education and Outreach, and Chapter Four, Public Involvement and Participation.

The proposed services involve three categories of work:

- 1) Develop and present a **Stormwater Education Module** for students at New Brighton Middle School
- 2) Support **Internet-Based Tools** to provide informational resources for citizens related to stormwater management, and allow feedback from citizens that can be used by City staff to assess and enhance public education and outreach
- 3) Provide an **Educational Film Series** on water quality issues, with discussion of each topic, and educational materials available for distribution

These three projects are further described below.

### 1) Stormwater School Education Module

Building on CWC's ongoing, successful Get Outdoors! (GO!) Program (funded by NOAA through the BWET grant program), CWC will continue its focused program for presentation to students at New Brighton Middle School. The program will complement

the ongoing education students are receiving on stormwater-related issues through the GO! Program, emphasizing urban rainfall/runoff hydrology, urban stormwater pollutants, pollutant transport (wash-off), and generally how human development and human activities affect the aquatic environment. We will cover the pollutants of concern as specified in the NPDES Permit and the SWMP, and focus on what we as citizens can do to help improve runoff quality and minimize impacts. The program will follow the approach used in the GO! Program, and make use of a variety of educational techniques, such as classroom teaching, demonstrations, field trips and hands-on, experiential learning. The steps involved in developing and implementing this program will include:

- A. Discuss ideas for program content, mode and presentation; negotiate with teachers and administrators at New Brighton Middle School for additional commitments in support of hands-on learning, and allocation of student time for the stormwater module; and schedule the activities.
- B. Develop program content and approach, involving possibly one or more school assemblies, and/or possibly implementing one or more actual stormwater control measures on-site. This could involve identifying on-campus stormwater runoff patterns, identifying possible means of reducing runoff volumes or improving runoff quantity, and implementation of suggested best management practices. Students will learn to use CWC's on-line Stewardship ToolKit, and will input the information on any school improvements into the on-line Stewardship Data Portal (see Task 2, below).
- C. Implement the program at New Brighton Middle School during the 2009-10 school year, if feasible.
- D. Summarize the program's activities and results in a written memorandum for City staff that relates to the City's SWMP, and provides material that can be used to help document the City's education and outreach efforts.

*SWMP benefits:* implements Public Education BMP #10: Educational Programs for Children. Provides secondary benefits re: implementation of PE BMP #5, Pet Waste, PE BMP #6, Trash Management, and PE BMP #7, Fertilizers and Pesticides, as relevant messages on the importance of proper pet waste management, trash disposal, and use of fertilizers and pesticides for yard care and landscape management will be included in the education program. Also helps implement PE BMP #8, Riparian Restoration and Protection, as students will learn the importance of healthy riparian corridors.

## **2) Develop Internet-Based Tools**

We will build upon work CWC has been doing to promote conscientious urban watershed stewardship by publicizing our on-line Stewardship ToolKit, and promoting use of the on-line Stewardship Data Portal. The ToolKit contains many different practical ideas for individual citizens to take positive action, with numerous links to additional on-line resources. An important aspect of this effort is the two-way flow of information: important educational and outreach messages are communicated by the City to citizens, and the public is encouraged to provide information back to the City as to what steps they are taking to help improve runoff quality - or reduce runoff quantity. These tools will be

customized for the City and linked to the City's web site. We will make use of popular social networking web sites and investigate other means of communicating stormwater-related messages and publicizing the on-line resources. Additionally, the public user input generated by the Stewardship Data Portal will be summarized for use in helping the City fulfill the Permit's reporting and program assessment requirements.

*SWMP benefits:* implements Public Education BMP #2, City of Capitola Website. Provides secondary benefits re: implementation of PE BMP #5, Pet Waste, PE BMP #6, Trash Management, and PE BMP #7, Fertilizers and Pesticides, as relevant messages on the importance of proper pet waste management, trash disposal, and use of fertilizers and pesticides for yard care and landscape management will be included in the web-based tools. Also initiates implementation of PE BMP #9, Social Marketing Strategies. Also helps fulfill Public Involvement BMP #4, by providing local stakeholder outreach.

### **3) Produce Educational Films/Water Tours Series**

CWC will provide a monthly series on water quality issues during the fall-winter-spring months, involving educational films and "Water Tours", where citizens are invited to visit stormwater-related sites and learn how they work within the context of the City's SWMP. The events will be noticed to the public with advance publicity through the City's and CWC's web sites, and via social networking avenues developed for Task 2. CWC will select and acquire the films and arrange the water tour events, set up the venue, host each event, and provide opportunity for discussion of each topic with local experts and community organizers as available. Refreshments will be provided at each event, and educational materials pertaining to the stormwater program and related water quality issues will be available for distribution to attendees.

Water Tours may include the following excursions:

- > Soquel Creek Lagoon and Treatment Wetlands
- > City's Stormwater Infrastructure
- > Stormwater BMPs – e.g., Nob Hill, private homes (e.g., Daniels, Sullivan)
- > Capitola Historical Museum – history and hydrology

CWC also will provide a brief write-up at the end of the year documenting the events for inclusion in the City's annual SWMP reporting.

*SWMP benefits:* implements Public Education BMP #3, Community Events. Provides secondary benefits re: implementation of PE BMP #1, Brochures/Newsletters, as a venue for distribution of same. Provides secondary benefits re: implementation of PE BMP #5, Pet Waste, PE BMP #6, Trash Management, and PE BMP #7, Fertilizers and Pesticides, as relevant messages on the importance of proper pet waste management, trash disposal, and use of fertilizers and pesticides for yard care and landscape management will be included in certain films and discussions, and relevant information will be available in hand-out materials. Also helps implement PE BMP #8, Riparian Restoration and Protection, as attendees will in some cases learn the importance of healthy riparian corridors. Also helps fulfill Public Involvement BMP #4, by providing local stakeholder outreach.

The proposed budget for the scope of work described above is shown in Attachment A; this includes a nominal additional amount of labor time for project management and administration as Task 4. Cognizant of tight municipal resources, this budget

CWC enjoys a positive working partnership with the City through our work on the Urban Watch/First Flush programs and other projects and programs. CWC also has extensive experience in public education and outreach, working in various capacities with the citizens of the Monterey Bay region. As the federal B-WET funding that supports our other work at New Brighton Middle School is under threat due to congressional budget cuts, the City's funds become even more critical to educating local youth. We look forward to assisting the City in its efforts to comply with the Phase II Stormwater Permit requirements and implement the SWMP, and to help meet its goals for improvement of urban runoff water quality.

Please let me know if there is any additional information we can provide as you review these materials. Thank you very much for providing us with this opportunity.

Respectfully,



Greg Pepping  
Executive Director  
Coastal Watershed Council  
[gpepping@coastalws.org](mailto:gpepping@coastalws.org)

Enclosure: Attached Budget







Item #: **5.B.**

## CITY COUNCIL AGENDA REPORT

**MEETING OF JUNE 23, 2011**

FROM: DEPARTMENT OF PUBLIC WORKS

DATE: JUNE 15, 2011

SUBJECT: PROPOSED ORDINANCE ADDING SECTION 9.12.080 TO THE CAPITOLA MUNICIPAL CODE PERTAINING TO NOISE [1<sup>st</sup> READING]

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

1. Pass the proposed Ordinance to a second reading adding Section 9.12.080 to the Capitola Municipal Code defining exemptions to the noise prohibitions for public health and safety, and
  2. Approve a Notice of Exemption from CEQA based on Section 15061 (b) (3).
- 

### **BACKGROUND**

Municipal services, such as street sweeping and garbage collection, are routinely done in early morning hours for safety and expedience purposes. Other activities, such as road construction, must sometimes be completed at night to minimize traffic impacts. While past city practice has been to exempt these activities from the noise prohibition sections of the Capitola Municipal Code, staff is recommending explicitly detailing these exemptions in the code.

### **DISCUSSION**

Capitola Municipal Code Section 9.12.010 prohibits loud noises between 10 p.m. and 8 a.m. in residential areas and limits construction noises between the hours of 9:00 p.m. and 7:30 a.m. during the week. A full copy of CMC Section 9.12 Noises is included as Attachment 2.

While city staff does its best to adhere to these regulations, certain activities require operations at times other than those specified. Staff is recommending that certain exemptions to the noise regulations be identified in the code so the public clearly understands what is permissible. Specifically, this proposed ordinance would exempt the following activities when undertaken by the City or a contractor working for the city:

- Refuse and recycling collection
- Beach maintenance
- Street sweeping
- Other activities deemed necessary for Health and Safety purposes

Exemptions would also be allowed upon approval of the City Manager or Public Works Director for the following project types when contracted for by the City or other Governmental Agency:

- Construction projects that disrupt traffic
- Construction work in the event of an emergency

The recent emergency work on the Noble Gulch Storm Drain is a good example of an emergency project that was necessary to work on outside of the permitted noise regulations.

**CEQA**

The substantive components of the project involve the addition of an exemption to allow noises for public health and safety to exceed the noise curfew for other government agencies where the City of Capitola director of public works determines that it will alleviate traffic disruption and allow project completion with few interruptions to the public or during emergencies. The proposed amendments will not have an effect, and since it can be seen with certainty that there is no possibility that the proposed project in question has the potential to have a significant adverse effect on the environment, the proposal is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

**FISCAL IMPACT**

None

**ATTACHMENTS**

1. Draft Ordinance
2. CMC Chapter 9.12 Noises
3. Notice of Exemption

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

**Reviewed and Forwarded  
By City Manager:**

\_\_\_\_\_

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

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA  
ADDING SECTION 9.12.080 TO THE CAPITOLA MUNICIPAL CODE  
PERTAINING TO NOISE**

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

Section 1: Section 9.12.080 is hereby added to the Capitola Municipal Code to read as follows:

**“9.12.080 Exemptions for Public Health and Safety.**

A. This chapter shall not apply to refuse collection, recyclable collection, beach maintenance or street sweeping activities undertaken by, or pursuant to contract with, the city of Capitola. Similarly, this chapter shall not apply to any other activity undertaken by the city, or city contractor for public health and safety purposes when, in the judgment of the city, such activity cannot be undertaken effectively or efficiently in compliance with the regulations set forth in this chapter.

B. The noise curfew regulations set forth in Section 9.12.010 shall not apply to any person engaged in performance of a contract for public works awarded by the City of Capitola or other governmental agency where the City of Capitola director of public works determines that the project has the potential to disrupt traffic and that this disruption could be alleviated by authorizing construction work during noise curfew hours or that due to time constraints on project completion it is necessary to allow the contractor to work during noise curfew hours.

C. This chapter shall not apply to any person engaged in performance of a contract for public works awarded by the city of Capitola or another governmental agency in the event of emergency and if the city manager of Capitola so authorizes such work.

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 23<sup>rd</sup> day of June, 2011, and was passed and adopted by the City Council of the City of Capitola on the \_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

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

APPROVED:

\_\_\_\_\_  
Dennis R. Norton, Mayor

ATTEST:

\_\_\_\_\_, MMC  
Pamela Greeninger, City Clerk

### Chapter 9.12 NOISES

#### 9.12.010 Noise prohibited.

A. It is unlawful for any person, firm or corporation to make, or permit to be made, any loud, boisterous, irritating, penetrating or unusual noise, or to keep, harbor or maintain, or to permit the keeping, harboring or maintaining of any barking or howling dogs, or to engage in, hold, conduct, operate, or permit the engaging in, holding, conduct or operation of, any business, public meeting or gathering, game, dance, amusement, appliance, contrivance, device, structure, construction, ride, machine, implement, or instrument, the use, engaging in, conduct or operation of which makes a loud, penetrating, irritating, boisterous or unusual noise, within two hundred feet of any residence, hotel, apartment house, cabin, cottage, cottage court, lodging facility or any building or place regularly used for sleeping purposes in the city between the hours of ten p.m. and eight a.m. of any day or days.

B. Except when otherwise specified in a land use permit or building permit issued by the city, any construction activity within the city shall be subject to a construction noise curfew. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official. (Ord. 883 § 1, 2005; Ord. 27 § 1, 1949)

#### 9.12.015 Regulations pertaining to mechanical sweeping devices, parking lot vacuum machines and leaf blowers.

A. On private property which does not have a residential zoning designation, mechanical sweeping devices, parking lot vacuum machines and leaf blowers may be used exterior to any structure only between the hours of seven a.m. and eleven p.m. on any day of the week within the city.

B. On private property which has a residential zoning designation leaf blowers may be used only between the hours of eight a.m. and five p.m. on weekdays and between the hours of ten a.m. and four p.m. on Saturday and Sunday.

C. No person shall operate any leaf blower which does not bear an affixed manufacturer's label indicating the model number of the leaf blower and designating a noise level not in excess of sixty-five dBA when measured from a distance of fifty feet utilizing American National Standard Institute methodology. Any leaf blower which bears such a manufacturer's label shall be presumed to comply with any noise level limit of this subsection provided that it is operated with all mufflers and full extension tubes supplied by the manufacturer for that leaf blower. No person shall be found in violation of this subsection until one year after its adoption to allow reasonable time to purchase leaf blowers that comply with these standards.

D. Leaf blower operations shall not cause leaves or other debris to be blown or deposited on any private property other than the parcel, land, or lot upon which the leaf blower is being operated. Notwithstanding the foregoing, a person shall not be in violation of this subsection if

he or she, with the consent of the other property owner, removes any such blown leaves or debris within one hour of

deposit and disposes of the debris in a sanitary manner which will prevent dispersement by wind, vandalism, or similar means.

E. Leaf blowers shall be in proper working order and all the manufacturer's noise, emission and dust control equipment on the leaf blower shall remain on the leaf blower and be in sound operating condition.

F. After leaf blower use, debris shall be disposed of in trash, compost or green waste receptacles.

G. Leaf blowers shall not be operated in close proximity to any operable window, door, mechanical air intake opening or duct of any building, or parked vehicle so as to deposit debris within or upon such window, door, opening, duct or vehicle unless the operator of the leaf blower has the permission of the building's occupant or the vehicle's owner.

H. The operator of the leaf blower, mechanical sweeping device or parking lot vacuum machine shall be subject to the requirements of this section and responsible for any violations of this section. (Ord. 921 § 1, 2007: Ord. 909 § 2, 2006)

#### 9.12.020 Violation—Penalty.

Violation of any provision of this chapter constitutes a misdemeanor and is punishable by a fine not exceeding one hundred dollars, or by imprisonment not exceeding ten days, or by both such fine and imprisonment. (Ord. 27 § 2, 1949)

#### 9.12.030 Violation—Nuisance.

The violation of any provision of this chapter is declared to be a public nuisance, and action may be taken by the city council to abate same by civil action, and the remedy by abatement shall be cumulative. (Ord. 27 § 3, 1949)

#### 9.12.040 Amplified sound—Permitted when.

It is unlawful for any person without a city permit to operate a loudspeaker, public address system or sound amplification system, or to play any musical instrument anywhere in the city except as follows:

A. Sound reproduction within automobiles for the pleasure and entertainment of the occupants of such automobiles; provided, however, that the sound reproduction shall not be amplified beyond the reasonable necessity of the occupants of such automobiles, nor to a level which a nonoccupant of ordinary sensibilities would find bothersome;

B. The operation of sound reproduction or broadcasting equipment within the dwelling for the pleasure and entertainment of the occupants of such dwelling; provided, however, that the reception shall not be amplified to a level which persons of ordinary sensibility located on another property or in another dwelling would find bothersome;

C. The use of such equipment or musical instruments outside of automobiles or dwelling houses between the hours of nine a.m. and nine p.m. on private property for the private entertainment of people, provided it cannot be heard on any other property;

D. The use of such equipment or musical instruments by duly authorized agents of the city or other governmental bodies or their agents in connection with activities related to health, safety and welfare. (Ord. 745 § 1 (part), 1992: Ord. 370 § 1, 1973)

#### [9.12.050 Amplified sound—Permit—Application.](#)

Any person desiring to obtain a permit for activities otherwise prohibited under Section 9.12.040 shall file a written application with the city, stating the name and address of the applicant, the reason why he or she desires the permit, the place where the permit will be used, the particular time when the permit will be used, the type of amplification equipment or musical instruments that will be used, the number of people involved, and any other information required by the city manager. Said application shall be filed with the clerk. (Ord. 745 § 1 (part), 1992: Ord. 370 § 2, 1973)

#### [9.12.060 Amplified sound—Permit—Hearing.](#)

The clerk shall present any application received to the council at its next regular meeting and after a hearing thereon, the council in its discretion may grant or deny such application, and if the council grants same, it shall prescribe such terms and conditions for the exercise of the permit as it may deem necessary to ensure that other persons of normal sensibilities are not subject to bothersome sound levels. (Ord. 745 § 1 (part), 1992: Ord. 370 § 3, 1973)

#### [9.12.070 Enforcement of permit conditions.](#)

The city council, after three days notice to the permit holder, may revoke or amend the conditions of any permit it determines has been violated. If a Capitola police officer determines that the conditions of a permit are being violated, he or she may immediately order the cessation of all amplification for a specified time, not longer than the next meeting available for the city council to review the permit. Disobedience of the officer's order shall be punishable as provided in Section 1.08.010. (Ord. 745 § 1 (part), 1992: Ord. 370 § 4, 1973)



**NOTICE OF EXEMPTION**

TO: CITY OF CAPITOLA CITY COUNCIL  
FROM: COMMUNITY DEVELOPMENT DEPARTMENT  
ATTACHMENT: DRAFT ORDINANCE

Based on a preliminary review, the adoption of an ordinance adding Section 9.12.080 to the Capitola Municipal Code defining exemptions to the noise prohibitions for public health and safety will result only in projects and activities determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State Guidelines for the implementation of CEQA.

**Case No.:** N/A

**Location:** Citywide

**Project Title:** Noise Ordinance Amendments

**Project Description:** The substantive components of the project involve the addition of an exemption to allow noises for public health and safety to exceed the noise curfew for other government agencies where the City of Capitola director of public works determines that it will alleviate traffic disruption and allow project completion with few interruptions to the public or during emergencies. The proposed amendments will not have an effect, and since it can be seen with certainty that there is no possibility that the proposed project in question has the potential to have a significant adverse effect on the environment, the proposal is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

**Exempt Status: (Check one)**

Ministerial

Statutory

**Categorical Exemption §15301 (b)(3)**

Emergency Project

No Possibility of Significant Effect

**Cite specific CEQA Guideline Section:** Sections §15601 (b) (3)

**Reasons to support exemption findings:** Please see the attached impact discussion for the proposed amendment on the following pages.

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Department Representative Date

Note: A copy must be filed with the County Clerk of the Board after project approval and posted by the Clerk of the Board for a period of 30 days to begin a 35 day statute of limitations on legal challenges.

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Date File of County Clerk



**Impact Discussion**

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

**Discussion:**

The ordinance identifies statutory exemptions to the City's noise control regulations for health and safety purposes. The exemptions are for routine maintenance services that typically are done in the early morning when traffic and pedestrian volumes are low. These activities include garbage and recycling collection, street sweeping, and beach maintenance. In addition certain public works projects of an emergency nature or ones that would adversely affect vehicle traffic may be exempted by the City Manager or Public Works Director depending on the nature and extent of the project and type of emergency. The added exemptions will not cause a significant effect on the environment, as they are temporary and infrequent. Individual projects that are determined to generate significant noise will be required to mitigate noise to acceptable levels pursuant to the City's adopted general plan noise policies.



## CITY COUNCIL AGENDA REPORT

### MEETING OF JUNE 23, 2011

FROM: CITY MANAGER'S OFFICE

DATE: MAY 18, 2011

SUBJECT: ORDINANCE AMENDING SECTIONS 10.44.020 AND 10.44.070 OF THE CAPITOLA MUNICIPAL CODE PERTAINING TO BICYCLE LICENSES [1<sup>ST</sup> READING]

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**Recommended Action:** By motion and roll call vote, pass the proposed Ordinance Amending Sections 10.44.020 and 10.44.070 of the Capitola Municipal Code pertaining to the Bicycle Licenses to a second reading, as submitted.

---

#### **BACKGROUND**

Sections 10.44.020 and 10.44.070 were originally adopted by Ordinance No. 66 in 1951. In reviewing the code it came to staff's attention that the provisions for issuing bicycle licenses and the license fee do not reflect the current practice.

#### **DISCUSSION**

A draft ordinance amending Sections 10.44.020 and 10.44.070 is attached for Council consideration. The proposed amendments reflect the current practices for issuing bicycle licenses in the City of Capitola. A provision has been added that, "Bicycle licenses shall not expire; however, if a bicycle is still in operation 20 years after the original date of issuance, the permit must be renewed at no cost."

Section 10.44.020 License – Issuance – Term. The proposed amendment to this section will identify the police department, rather than the city clerk, as the City department that processes bicycle licenses.

Section 10.44.020 License – Fee.

The proposed amendment will refer to the City's fee schedule, rather than prescribe the fee as "fifty cents," with a transfer fee of "twenty five cents." The City's fee schedule does not include a transfer fee for bicycle licenses. It does provide for a renewal fee.

The City's current fee schedule for bicycle licenses is as follows:

Bicycle Licenses (New)	\$9
Bicycle Licenses (Renewal)	\$6

If the proposed code amendment is approved, the bicycle license renewal fee will be deleted from the fee schedule, and a notation included in the fee schedule referring to Municipal Code §10.44.020 regarding term of license. The bicycle license fees will be addressed at the time the City Council reviews and adopts the Fee Schedule for Fiscal Year 2011/2012 on July 14, 2011.

These proposed amendments will bring the Municipal Code up-to-date with current practices.

**ATTACHMENTS**

1. Draft Ordinance
2. Current Municipal Code Sections to be Amended

**Report Prepared By:** Pamela Greeninger, MMC  
City Clerk

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

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA AMENDING SECTIONS 10.44.020 AND 10.44.070 OF THE CAPITOLA MUNICIPAL CODE PERTAINING TO BICYCLE LICENSES

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

Section 1. Subsection A. of Section 10.44.020 of the Capitola Municipal Code is hereby amended to read as follows:

“10.44.020 License—Issuance—Term.

A. The city clerk ~~police department~~ is authorized and directed to issue bicycle licenses upon request and payment of established license fee. ~~which shall be effective from the first day of January, 1952 to and including December 31, 1952. Thereafter said Bicycle licenses shall not expire; however, if a bicycle is still in operation 20 years after the original date of issuance, the permit must be renewed at no cost. be issued for the calendar year, commencing on the first day of January of each of said calendar years and ending on the thirty-first day of December of said calendar year. The full license fee established in this chapter shall be paid by licensee without reference to the date during the calendar year in which application is made, and the city clerk shall collect said fee without proration.~~ Said licenses when issued shall entitle the licensee to operate such bicycle for which said license has been issued, upon all the streets, alleys and public highways, exclusive of the sidewalks thereof, in the city.”

Section 2. Section 10.44.070 of the Capitola Municipal Code is hereby amended to read as follows:

“10.44.070 License—Fee.

The annual license fee to be paid for each bicycle shall be set by resolution of the city council. ~~fifty cents and shall be paid in advance; and pursuant to Section 10.44.050, such license may be transferred, and a fee of twenty-five cents shall be paid for the registration of such transfer.~~ All license fees collected under this chapter shall be paid into the general fund of the city.

Section 3. This ordinance shall take effect and be in full force thirty (30) days after its final adoption.

This ordinance was introduced on the 23<sup>rd</sup> day of June, 2011, and was passed and adopted by the City Council of the City of Capitola on the 14<sup>th</sup> day of July, 2011, by the following vote:

- AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

Dennis R. Norton, Mayor

ATTEST:
Pamela Greeninger, City Clerk

**CURRENT MUNICIPAL CODE SECTIONS**

**10.44.020 License—Issuance—Term.**

A. The city clerk is authorized and directed to issue upon request and payment of established license fee, bicycle licenses which shall be effective from the first day of January, 1952 to and including December 31, 1952. Thereafter said licenses shall be issued for the calendar year, commencing on the first day of January of each of said calendar years and ending on the thirty-first day of December of said calendar year. The full license fee established in this chapter shall be paid by licensee without reference to the date during the calendar year in which application is made, and the city clerk shall collect said fee without proration. Said licenses when issued shall entitle the licensee to operate such bicycle for which said license has been issued, upon all the streets, alleys and public highways, exclusive of the sidewalks thereof, in the city.

B. With the exception of all cases of first registerability under the provisions of this chapter, the license fee shall be due and payable on or before the thirty-first day of January of each year and a penalty equal to fifty percent of the license fee shall be assessed in addition to the license fee in all cases of license, fees due but unpaid on or before said last-mentioned date. (Ord. 127 § 1, 1958; Ord. 66 § 2, 1951)

**10.44.070 License—Fee.**

The annual license fee to be paid for each bicycle shall be fifty cents and shall be paid in advance; and pursuant to Section 10.44.050, such license may be transferred, and a fee of twenty-five cents shall be paid for the registration of such transfer. All license fees collected under this chapter shall be paid into the general fund of the city. (Ord. 66 § 7, 1951)



Item #: 5.D.

## CITY COUNCIL AGENDA REPORT

MEETING OF JUNE 23, 2011

**FROM:** OFFICE OF THE CITY CLERK  
**DATE:** JUNE 14, 2011  
**SUBJECT:** APPROVAL OF ADMINISTRATIVE POLICY: FUND BALANCE POLICY  
(CONTINUED FROM JUNE 9, 2011 MEETING)

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**Recommended Action:** By motion and roll call vote, that the City Council approve the proposed Administrative Policy: Fund Balance Policy, as submitted.

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### **BACKGROUND**

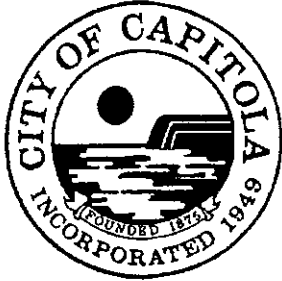
This item was continued from the City Council's meeting of June 9, 2011, in order for the Council to review a PowerPoint Presentation made at an AMBAG meeting attended by Council Member Harlan.

### **ATTACHMENT**

June 9, 2011 Agenda Report and Draft Policy

**Report Prepared By:** Pamela Greeninger, MMC  
City Clerk

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



## CITY COUNCIL AGENDA REPORT

MEETING OF JUNE 9, 2011

FROM: FINANCE DEPARTMENT  
DATE: JUNE 1, 2011  
SUBJECT: APPROVE ADMINISTRATIVE POLICY: FUND BALANCE POLICY

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**Recommended Action:** By motion and roll call vote, that the City Council approve the proposed Administrative Policy: Fund Balance Policy, as submitted.

---

### BACKGROUND

In February 2009, the Governmental Accounting Standards Board (GASB) issued Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions, which requires the City Council to make certain decisions regarding the use of resources and classification of ending fund balance in order for the annual financial reports (audits) to be in compliance with generally accepted accounting principles (GAAP). Fiscal year 2010-2011 is the first year the City must implement this new statement. The Intent of GASB 54 is to improve the usefulness of the amounts reporting in ending fund balances on the year-end reports by providing clearer fund balance classifications that can be more consistently applied and by clarifying the existing governmental fund type definitions.

### DISCUSSION

With GASB 54, a hierarchy of fund balance classifications has been created. These classifications are based primarily on the extent to which governments are bound by the constraints placed on resources reported in those funds. With the implementation of GASB 54, there are five new categories required for ending fund balances. The five categories are: Nonspendable, restricted, committed, assigned, and unassigned.

The City of Capitola policy establishes the order of use of unrestricted resources when any of these amounts are available for expenditure as committed amounts should be used first, followed by the assigned amounts, and then the unassigned amounts.

In addition, GASB 54 allows the City Council authority to "assign" ending fund balances or bestow this authority to a city officer or designee. To provide the city with the most flexibility in financial reporting, staff is recommending that the Finance Director be given authority to assign resources and ending fund balances if applicable.

### FISCAL IMPACT

No fiscal impact.

### ATTACHMENT – Draft Policy

Report Prepared By: Lisa Saldana  
Supervising Accountant

Reviewed and Forwarded  
by City Manager: 



## ADMINISTRATIVE POLICY

Number: III-10  
Issued: 6/9/11 DRAFT  
Jurisdiction: City Council

### FUND BALANCE POLICY

#### I. PURPOSE

To comply with Governmental Accounting Standards Board (GASB) issued statement 54 which requires the City Council to make certain decisions regarding the use of resources and classifications of ending fund balance in order for the annual financial reports to be in compliance with Generally Accepted Accounting Principles (GAAP).

#### II. SUMMARY

With GASB 54, a hierarchy of fund balance classifications has been created. These classifications are based primarily on the extent to which governments are bound by the constraints placed on resources reported in those funds. This approach is intended to provide users more consistent and understandable information about a fund's net resources. Previously, the city reported fund balances that were reserved, designated, or unreserved. With the implementation of GASB 54, there are five new categories required for ending fund balances. This statement applies to governmental funds only.

#### III. DEFINITIONS

The five new categories of ending fund balance are:

##### **Nonspendable Fund Balance**

- Amounts that cannot be spent due to form; for example, inventories and prepaid amounts. Also, long-term loan and notes receivables, and property held for resale would be reported here unless the proceeds are restricted, committed or assigned.
- Amounts that must be maintained intact legally or contractually (principal of a permanent fund)

##### **Restricted Fund Balance**

- Amounts constrained for a specific purpose by external parties, constitutional provision of enabling legislation

##### **Committed Fund Balance**

- Amounts constrained for a specific purpose by a government using its highest level of decision-making authority. It would require action by the same group to remove or change the constraints placed on the resources
- Action to constrain resources must occur prior to year-end; however, the amount can be determined in the subsequent period

##### **Assigned Fund Balance**

- For all governmental funds other than the general fund, any remaining positive amounts not classified as nonspendable, restricted or committed



- For the general fund, amounts constrained for the intent to be used for a specific purpose by a governing board or a body or official that has been delegated authority to assign amounts. Amount reported as assigned should not result in a deficit in unassigned fund balance

**Unassigned Fund**

- For the general fund, amounts not classified as nonspendable, restricted, committed or assigned. The general fund is the only fund that would report a positive amount in the unassigned fund balance.
- For all governmental funds other than the general fund, amount expended in excess of resources that are nonspendable, restricted, committed or assigned (a residual deficit). In determining a residual deficit, no amount should be reported as assigned.

**IV. POLICY**

The City of Capitola will use GASB's definitions of fund balance for the annual financial reports (audits) and for all other financial reporting.

The City of Capitola policy establishes the order of use of unrestricted resources when any of these amounts are available for expenditure as committed amounts should be used first, followed by the assigned amounts, and then the unassigned amounts.

In addition, GASB 54 allows the City Council authority to "assign" ending fund balances or bestow this authority to a city officer or designee. To provide the city with the most flexibility in financial reporting, staff is recommending that the Finance Director be given authority to assign resources and ending fund balances if applicable.

This policy was approved by the City Council of the City of Capitola at its meeting held on the 9<sup>th</sup> day of June, 2011, and authorized by:

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Jamie Goldstein  
City Manager

JG/lis



## CITY COUNCIL AGENDA REPORT

MEETING OF JUNE 23, 2011

FROM: CITY MANAGER'S DEPARTMENT  
DATE: JUNE 17, 2011  
SUBJECT: SMARTMETER ORDINANCE MORATORIUM IMPLEMENTATION

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**Recommended Action:** Council direction.

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### **BACKGROUND**

On July 22, 2010, September 23, 2010, and on February 10, 2011 the City Council held hearings concerning Pacific Gas and Electric Company's (PG&E) installation of SmartMeters in the City of Capitola. At these three meetings the City Council took the following actions:

July 22, 2010

- The City signed onto both the City and County of San Francisco petition and the EMF Safety Network petition to the California Public Utilities Commission (CPUC) and that the City Council reviews its petitions in October of this year.

September 23, 2010

- Staff was directed to request the Legislature, through our local Assembly member Bill Monning and Senator Joe Simitian, to order a thorough analysis of the environmental and health effects of this technology;
- The City Attorney was directed to prepare a letter to the CPUC requesting a halt to the installation of SmartMeters in Capitola until a health, safety and accuracy analysis has been completed. (This letter was sent by Mayor Storey on October 6, 2010.)
- Adopted Resolution No. 3831, Resolution of the City Council of the City of Capitola Demanding PG&E halt Installation of SmartMeters and related equipment in the City.

February 10, 2011

- Adopted Urgency Ordinance No. 952 imposing a temporary moratorium on the installation of PG&E SmartMeters and related equipment in, along, across, upon, under and over the public streets and other places within the City of Capitola until December 31, 2011

### **DISCUSSION**

As discussed at prior hearings, Pacific Gas & Electric asserts the City has no authority to regulate the installation of SmartMeters. That position is also taken by the California Public Utilities Commission in the correspondence dated August 2, 2010 addressed to the Town of Fairfax (Attachment 1).

As a result, PG&E has continued to install SmartMeters in the City since the adoption of the City's urgency ordinance. To date, City staff has taken no enforcement action against PG&E, as the City Attorney has advised the City that the outcome of such an action is uncertain and that a litigation budget for the action would need to be approved by the Council before it could direct the City Attorney to proceed with such an action. However, on April 21, 2011, the City Attorney sent PG&E a letter informing them of the City's moratorium and providing a copy of the Urgency Ordinance (Attachment 2). Staff believes the letter has not convinced PG&E to modify its interpretation of the State Constitution, and PG&E continues to install SmartMeters.

The City has been informed that PG&E has scheduled full deployment of SmartMeters in Capitola this summer, and has developed an opt out provision for residents concerned with SmartMeters.

### **FISCAL IMPACT**

Should the City Council choose to file a lawsuit against PG&E, or the CPUC, the City Attorney has previously estimated a litigation budget of at least \$15,000.

### **ATTACHMENTS**

1. Correspondence dated August 2, 2010 from CPUC to the Town of Fairfax
2. City Attorney correspondence to PG&E regarding SmartMeters and adopted Urgency Ordinance No. 952
3. Correspondence dated June 15, 2011 from PG&E to Mayor Norton

**Report Prepared By:** Jamie Goldstein  
City Manager

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

## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



August 2, 2010

Michael Rock, Town Manager  
Fairfax Town Hall  
142 Bolinas Road  
Fairfax, CA 94930  
Fax: 415.453.1618

**Re: Proposed Emergency Ordinance Establishing A Temporary Moratorium On  
The Installation Of Smart Meters**

Dear Mr. Rock:

It has been brought to our attention that on August 4, 2010, the Town Council of the Town of Fairfax is scheduled to consider a proposed emergency ordinance establishing a six-month moratorium on the installation of Smart Meters and related equipment within the Town of Fairfax or in, along, across, upon, under and over the public streets and places within the Town of Fairfax, and declaring the urgency thereof.

We are writing to inform you of our view that the Town of Fairfax's proposed ordinance would interfere with the exclusive jurisdiction of the California Public Utilities Commission (CPUC or Commission) over the regulation of public utilities.

Section 8 of Article 12 of the California Constitution states that "[a] city, county, or other public body may not regulate matters over which the Legislature grants regulatory power to the Commission."<sup>1</sup> The Legislature has granted the Commission authority over a public utility's infrastructure, including the installation of meters. (See Public Utilities Code section 761, granting the Commission authority (i) to regulate the practices, equipment, appliances, facilities, service and the methods of supply and distribution of public utilities and (ii) to determine whether any of those are unjust, unreasonable, unsafe, improper, inadequate, or insufficient; *see also* Public Utilities Code section 701, granting the Commission jurisdiction to regulate every public utility in the State and do all things,

<sup>1</sup> Although Section 8 contains a limited exception for municipal regulations adopted pursuant to a city charter existing on October 10, 1911, we note that the Town of Fairfax was not incorporated until 1931.

Michael Rock, Town Manager  
August 2, 2010  
Page 2

whether specifically designated in the Public Utilities Act or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.)

Pursuant to CPUC Decision (D.) 06-07-027, since 2006 Pacific Gas and Electric Company (PG&E) has been and continues to deploy "Smart Meters" in its service territory. Similar initiatives are underway pursuant to subsequent Commission decisions pertaining to the other major electric utilities in the state in their respective service territories. In D.06-07-027, the Commission recognized that new, advanced metering technology may evolve, and ordered PG&E to monitor technological developments in order to upgrade its Advanced Metering Infrastructure (AMI) system as deemed appropriate by the CPUC. Thereafter, in D.09-03-026, the Commission approved PG&E's proposed upgrades to its Smart Meter program. The installation of advanced metering technology is an important component of the CPUC's long term goals to develop a more sophisticated, state-wide demand response capability, which would, in turn, enhance electric system reliability, reduce power purchase and individual consumer costs, and reduce the emission of greenhouse gases.

As part of your due diligence, I would ask that your office and the Town's legal counsel carefully consider the legal issues associated with the proposed ordinance.

Please feel free to contact me if you have any questions.

Thank you very much for your attention to this matter.

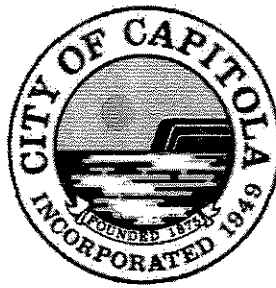
Sincerely,



Frank R. Lindh, General Counsel  
Public Utilities Commission  
of the State of California  
505 Van Ness Avenue  
San Francisco, CA 94102

(415) 703-2015  
[frl@cpuc.ca.gov](mailto:frl@cpuc.ca.gov)

cc: Jim Karpiak, Town Counsel for the Town of Fairfax  
Paul Clanon, Executive Director, CPUC



**Office of the City Attorney**  
333 Church Street, Santa Cruz, California 95060  
Telephone: (831) 423-8383  
Fax: (831) 576-2269

April 21, 2011

***Via United States Mail***

Wendy Abbott Sarsfield  
Government Relations  
Pacific Gas & Electric Co.  
356 E. Alisal Street  
Salinas, CA 93901

RE: Pacific Cove Mobilehome Park—City of Capitola

Dear Ms. Sarsfield,

The City of Capitola has been advised that PG&E has now scheduled the installation of gas/electricity meters at the Pacific Cove Mobilehome Park, owned by the City of Capitola, which recently experienced significant flood damage requiring the park's evacuation pending repair and rehabilitation. A PG&E field representative, in a conversation with a City staff member, indicated that PG&E would be installing SmartMeters.

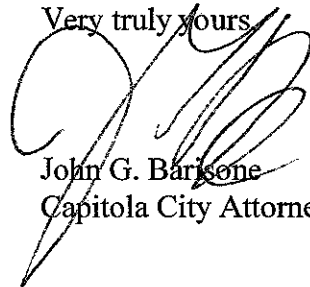
As you are aware, on February 11, 2011 the Capitola City Council adopted Urgency Ordinance No. 952 (copy attached) pursuant to which the City prohibited the installation of SmartMeters within the City's jurisdictional limits through December 31, 2011. Pursuant to Section 2 of the ordinance, violations of the ordinance constitute a crime punishable as either an infraction or misdemeanor.

While the City certainly encourages PG&E to expeditiously complete its meter installation so as to facilitate resumption of the park's residential use in the near future, the City also expects PG&E to comply with its ordinance and to this end is hopeful that PG&E will do so by installing meters which are permissible under the ordinance.

Wendy Abbott Sarsfield  
April 21, 2011  
Page 2 of 2

Thank you for your attention to the foregoing.

Very truly yours

A handwritten signature in black ink, appearing to read 'John G. Barisone', written over the typed name and title.

John G. Barisone  
Capitola City Attorney

JGB/ang

Encl.

cc: Mayor and City Councilmembers  
Jamie Goldstein, City Manager  
Steve Jesberg, Public Works Director  
Mark Creech, PG&E

**COPY**

URGENCY ORDINANCE NO. 952

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

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

- A. WHEREAS, the City of Capitola ("City") through its police powers granted by Article XI of the California Constitution, retains broad discretion to legislate for public purposes and for the general welfare, including but not limited to matters of public health, safety and consumer protection; and
- B. WHEREAS, the City has a franchise agreement with PG&E that has been in effect since April 18, 1949; and
- C. WHEREAS, in addition, the City retains authority under Article XII, Section 8 of the Constitution to grant franchises for public utilities, and pursuant to California Public Utilities Code Section 6203, "may in such a franchise impose such other and additional terms and conditions.. " whether governmental or contractual, as in the judgment of the legislative body are to the public interest;" and
- D. WHEREAS, Public Utilities Code section 2902 reserves the City's right to supervise and regulate public utilities in matters affecting the health, convenience and safety of the general public, "such as the use and repair of public streets by any public utility, the location of the poles, wires, mains, or conduits of any public utility, on, under, or above any public streets, and the speed of common carriers operating within the limits of the municipal corporation;" and
- E. WHEREAS, Pacific Gas & Electric Company ("PG&E") is now installing SmartMeters in Central and Northern California and is installing these meters within the City of Capitola; and
- F. WHEREAS, concerns about the impact and accuracy of SmartMeters have been raised nationwide, leading the Maryland Public Service Commission to deny permission on June 21, 2010 for the deployment of SmartMeters in that state. The State of Hawaii Public Utility Commission also recently declined to adopt a smart grid system in that state; and
- G. WHEREAS, major problems and deficiencies with PG&E SmartMeters in California have been brought to the attention of the City Council of the City of Capitola, including PG&E's confirmation that its SmartMeters have provided incorrect readings costing ratepayers untold thousands of dollars in overcharges. In addition, PG&E records outline "risks" and "issues" including an ongoing inability to recover real-time data because of faulty hardware originating with PG&E vendors; and
- H. WHEREAS, the ebb and flow of gas and electricity into homes discloses detailed information about private aspects of daily life. Energy usage data, measured moment by moment, allows the reconstruction of a household's activities: when people wake up, when they come home, when they go on vacation, and even when they take a hot bath. SmartMeters represent a new form of technology that relays detailed hitherto confidential information reflecting the times and amounts of the use of electrical power without adequately protecting that data from being accessed by



unauthorized persons or entities and as such pose an unreasonable intrusion of utility customers' privacy rights and security interests. Indeed, the fact that the CPUC has not established safeguards for privacy in its regulatory approvals may violate the principles set forth by the U.S. Supreme Court in *Kyllo v. United States* (2001), 533 U.S. 27; and

I. WHEREAS, there is now evidence showing that problems with SmartMeters could adversely impact the amateur radio communication network that operates throughout California and neighboring states, as well as other radio emergency communication systems that serve first responders, government agencies, and the public; and

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

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

L. WHEREAS, the primary justification given for the SmartMeters program is the assertion that it will encourage customers to move some of their electricity usage from daytime to evening hours; however, PG&E has conducted no actual pilot projects to determine whether this assumption is in fact correct. Non-transmitting time-of-day meters are already available for customers who desire them, and enhanced customer education is a viable non-technological alternative to encourage electricity use timeshifting. Further, some engineers and energy conservation experts believe that the SmartMeters program could well actually increase total electricity consumption and therefore the carbon footprint; and

M. WHEREAS, Assembly member Jared Huffman has recently introduced legislation (AB 37) which would add a section to the Public Utilities Code to require the CPUC to identify alternative options for customers who do not wish to have a wireless SmartMeter installed and allow customers to opt-out of wireless SmartMeter installation, including removing existing SmartMeters where requested by the customer. Most importantly, the legislation would suspend deployment of SmartMeters until the CPUC meets the above requirements; and

N. WHEREAS, the City Council of the City of Capitola on September 23, 2010 adopted a resolution demanding PG&E halt the installation of SmartMeters and related equipment within the City of Capitola until concerns regarding the accuracy and safety of the SmartMeters is addressed and demanding that PG&E implement mechanisms to allow residents to opt-out and remove SmartMeters from resident's houses who do not want them; and

O. WHEREAS, PG&E has declined to honor the City's request in this regard; and

P. WHEREAS, because the potential risks to the health, safety and welfare of City residents are so great the City Council wishes to adopt a moratorium on the installation of PG&E SmartMeters and related equipment within the City of Capitola. The moratorium period will allow the legislative process referenced above to be completed and for additional information to be collected and analyzed regarding potential problems with these SmartMeters; and

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

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

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

T. WHEREAS, based on the foregoing it is in the best interest of public health, safety and welfare to allow adequate study of the impacts resulting from the SmartMeter technology; therefore it is appropriate to adopt a temporary moratorium that would remain in effect from the date of its adoption through December 31, 2011, unless the City Council acts to repeal it prior to that date.

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

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

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

Section 3. The City Council finds and determines that: (a) there is a current and immediate threat to the public peace, health, or safety; (b) this moratorium must be imposed in order to protect and preserve the public interest, health, safety, comfort and convenience and to preserve the public welfare; and (c) it is necessary to preserve the public health and safety of all residents or landowners adjacent to such uses as are affected by this interim ordinance as well as to protect all of the citizens of the City of Capitola by preserving and improving the aesthetic and economic conditions of the City.

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

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

Section 6. Effective Dates. This ordinance shall take effect immediately based on the findings by the City Council that this ordinance is necessary for the protection of the public health, safety, and general welfare. This ordinance shall be in full force and effect from the date of its adoption by the City Council through December 31, 2011, at which time its terms and provision shall expire and no longer remain in effect.

This ordinance was passed and adopted on the 10<sup>th</sup> day of February, 2011, as an Urgency Ordinance to be effective immediately, by the following vote:


AYES: Council Members Harlan, Termini, Storey, and Mayor Norton

NOES: Council Member Nicol

ABSENT: None

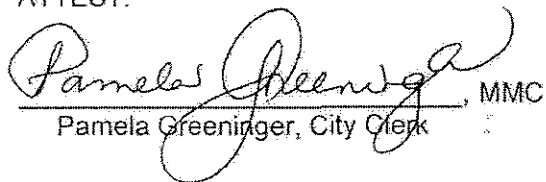
ABSTAIN: None

DISQUALIFIED: None

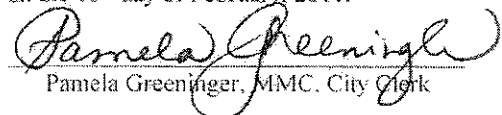
APPROVED: 

Dennis R. Norton, Mayor

ATTEST:

 MMC  
Pamela Greeninger, City Clerk

This is to certify that the above and foregoing is a true and correct copy of Urgency Ordinance No. 952 passed and adopted by the City Council on the 10<sup>th</sup> day of February, 2011.

  
Pamela Greeninger, MMC, City Clerk

## ATTACHMENT 3

From: Sarsfield, Wendy A  
Sent: Wednesday, June 15, 2011 2:18 PM  
To: 'dnortondesigns@msn.com'  
Subject: Update from PG&E

Dear Mayor Norton:

Pacific Gas and Electric Company (PG&E) considers it a privilege to provide our customers with safe, clean and reliable energy. Since 2006, as part of an approved statewide effort to update the energy grid and provide customers with tools to view their energy usage and better manage their energy costs, PG&E has installed more than 8 million SmartMeters™. While doing so, we continue to provide additional public outreach throughout your communities.

Since 2010, we have been working hard to communicate the benefits of the SmartMeter™ program and to respond to customers' questions and concerns about the technology. Within Santa Cruz County, we have hosted 14 Education Centers, 1 Open House, and made multiple presentations to elected officials and community organizations. We also enlisted SmartMeter™ technology and RF experts to attend these meetings and explain the more detailed and technical information to any interested parties.

The SmartMeter upgrade in Santa Cruz County communities is scheduled for June of 2011, continuing through the end of the year. In addition to sending letters prior to visiting customers' homes, PG&E is also proactively calling each residential customer to share our plans, and is running advertising in area newspapers in both English and Spanish. In all of these communications, PG&E is letting individual customers know that they have the choice to delay their meter upgrade for any reason by calling our SmartMeter hotline at 1.866.743.0263.

We hope to continue working with you and welcome your feedback on this process.

If your constituents would like more information about our SmartMeter™ program or wish to delay their meter upgrade, please feel free to share the following contact information with them:

- call to speak with a SmartMeter™ specialist at 1.866.743.0263 or
- visit us online at [www.pge.com/smartmeter](http://www.pge.com/smartmeter).

If you have any questions, please feel free to contact me at 784-3584.

Regards,

Wendy Abbott Sarsfield  
Government Relations Manager, Pacific Gas and Electric Company  
356 E. Alisal St.  
Salinas, CA 93901  
phone: (831) 784-3584  
cellular: (831) 262-7628  
email: [wasc@pge.com](mailto:wasc@pge.com)