



AGENDA COVER
Regular Joint Meeting of the
**CAPITOLA CITY COUNCIL/
REDEVELOPMENT AGENCY**
MEETING DATE: THURSDAY, SEPTEMBER 22, 2011

CITY COUNCIL CHAMBERS: 420 CAPITOLA AVENUE, CAPITOLA

CLOSED SESSION
REGULAR JOINT MEETING

5:30 P.M.
7:00 P.M.

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
Lisa Murphy,
Administrative Services 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. 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 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.



REVISED AGENDA

Regular Joint Meeting of the CAPITOLA CITY COUNCIL/REDEVELOPMENT AGENCY Thursday, September 22, 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)]

Bill Newman, et al. (residents of Surf & Sand Mobile Home Park) vs. Surf and Sand, LLC, Ronald Reed, et al. [Superior Court County of Santa Cruz, Unlimited Jurisdiction, Case No. CV 171783]

Surf and Sand, LLC; Ronald Reed, Cross-Complainants vs. City of Capitola [Superior Court County of Santa Cruz, Unlimited Jurisdiction, Case No. CV 171783]

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Government Code §54956.9:
One Case – Noble Gulch Storm Drain Failure in Pacific Cove Mobile Home Park

PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code §54957)

Title: City Manager

CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Govt. Code §54956.8)

Property: McGregor Drive, APN 36-341-02 (City of Capitola, Owner)

City Negotiator: City Manager

Negotiating Parties: City and Soquel Creek Water District

Under Negotiation: Real Property Lease/Sale

LIABILITY CLAIMS (Govt. Code §54956.95)

Claimant: Farmers Insurance Exchange; subrogee of Babette Beyer and Rainbow City Limits

Claimant: Mid-Century Insurance Company; subrogee of Panache Bath & Body Shop

Claimant: California Capital Insurance Company; subrogee of Stacey Basile, et al.

Claimant: Capitola Associates, LLC

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 * * ***

Mayor's Proclamation proclaiming
October 1 to November 3, 2011 as "The Big Read Month"

Presentation by Brenda Moss, Executive Director of
Senior Network Services

Presentation by Laura Kasa, Executive Director of
Save Our Shores

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.

F. Approval of Check Register Reports

- 1) City: Approval of City Check Register Reports dated September 2 and September 9, 2011.
- 2) RDA: No Report.

3. **CONSENT CALENDAR**

All matters listed under "Consent Calendar" will be enacted by one motion in the form listed below. There will be no separate discussion on these items prior to the time the Council votes on the action unless members of the public or the City Council/Redevelopment Agency 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 Meeting of the City Council/Redevelopment Agency of September 8, 2011.
- C. City Treasurer's Report for the month ended August 31, 2011 (Unaudited).
- 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. Approve First Amendment to the Cooperative Agreement with Barry Swenson Builder for Village Hotel Planning, and adopt Resolution amending the FY2011-12 budget to accept \$30,000 in funds and to increase the General Plan Maintenance Fund Revenues and Expenditures by \$30,000.
- F. Deny liability claims and forward to the City's liability insurance carrier.
 - 1) Farmers Insurance Exchange; subrogee of Babette Beyer and Rainbow City Limits: \$6,409.89
 - 2) Mid-Century Insurance Company; subrogee of Panache Bath & Body Shop: \$12,682.23
 - 3) California Capital Insurance Company; subrogee of Stacey Basile, et al.: \$250,000.00
 - 4) Capitola Associates, LLC: \$541,724.72

3. CONSENT CALENDAR (Continued)

- G. City/RDA: Adopt Uncodified Ordinance of the City of Capitola Determining it will Comply with the Voluntary Alternative Redevelopment Program Pursuant to Part 1.9 of Division 24 of the California Health and Safety Code in Order to Permit the Continued Existence and Operation of the Redevelopment Agency of the City of Capitola [2nd Reading], and adopt the necessary City Council and Redevelopment Agency Resolutions approving various agreements required to implement the State's voluntary Alternative Redevelopment Program established as part of the State's FY2011-12 Budget.
- H. Approve a three-year contract with Ed Morrison for Public Works Inspection Services in an amount not to exceed \$30,000 per year, effective January 1, 2012.

4. PUBLIC HEARINGS

Public Hearings are intended to provide an opportunity for public discussion of each item listed as a Public Hearing. The following procedure is followed for each Public Hearing listed: 1) Staff Explanation; 2) Public Discussion; 3) Council Comments; 4) Close public portion of the Hearing; 5) City Council discussion; and 6) Decision.

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

- A. Public Hearing to discuss possible Skate Park Locations and Options. Presentation: Public Works Department.

5. OTHER BUSINESS

- A. Environmentally Acceptable Packaging Materials: Ordinance Amending Sections 8.36.010, 8.36.020, 8.36.030, 8.36.040, 8.36.050, 8.36.060 and 8.36.070 of the Capitola Municipal Code pertaining to the use of Polystyrene Foam and Biodegradable and Compostable Disposable Food Service Ware [1st Reading]. Staff recommendation: adopt ordinance.

5. OTHER BUSINESS (Continued)

- B. Report on Implementation of the Parking Pay Stations in Capitola Village. Staff recommendation: receive report.
- C. Adopt Resolution Accepting the State of California CDBG Disaster Recovery Initiative Grant in the amount of \$250,000 and amending the FY2011-12 budget accordingly, and approve the following agreements associated with the expenditure of the grant funds:
 - 1) RBF Consulting in the amount of \$93,450 to prepare a Local Hazard Mitigation Plan;
 - 2) Amendment to agreement with Design, Community & Environment (DCE) in the amount of \$68,500 for expanded portions of the Safety Element; and
 - 3) Amendment to the agreement with consultant Carolyn Flynn in the amount of \$37,500 for project management, grant administration and reporting.
- D. Professional Services Agreement with William Statler for Interim Finance Director. Staff recommendation: approve agreement with William Statler, and adopt Resolution Amending the FY2011-2012 budget in the amount of \$30,000.

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

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

Adjourn to a Special Joint Study Session with the Finance Advisory Committee on Wednesday, October 12, 2011, at 6:00 p.m., and then to the next Regular Joint Meeting of the City Council/Redevelopment Agency to be held on Thursday, October 13, 2011, at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

City of Capitola

Mayor's Proclamation

Designating October 1 through November 3, 2011
"The Big Read Month"

WHEREAS, **The Big Read** is an initiative of the National Endowment for the Arts (NEA) designed to restore reading to the center of American culture and encourage reading for pleasure and enlightenment; and

WHEREAS, the NEA presents **The Big Read** in partnership with the Institute of Museum and Library Services and in partnership with Arts Midwest; and

WHEREAS, what began as a pilot project in 2006 with ten communities, **The Big Read** has since expanded to include 951 grants as of June 2010 and now brings together partners across the country to participate in this important program; and

WHEREAS, locally, The Friends of the Library, in partnership with the Santa Cruz Public Libraries, received a Big Read grant for the works of author Edgar Allan Poe; and

WHEREAS, from October 1 through November 3, 2011, the goal is to have the entire Santa Cruz community reading, viewing and listening, and talking about the works of Poe; and

WHEREAS, to encourage broad participation in the local Big Read event, staff at the Santa Cruz Public Libraries, volunteers with Friends of the Library, local school districts, the Museum of Art and History, Community Television, and local businesses and groups will host a number of events highlighting the work and life of Poe; and

WHEREAS, events and activities will include book discussion groups reading Poe, mystery author events, and a condor education program, and will culminate with a grand finale event on November 3 at the Seymour Center where Poe impersonator Duffy Hudson and Author Laurie King will be the featured guests.

NOW, THEREFORE, I, Dennis R. Norton, Mayor of the City of Capitola, do hereby proclaim October 1 through November 3, 2011, as "**The Big Read Month**" in the City of Capitola and encourage all residents to participate in the many events focusing on the incredible life and work of Edgar Allan Poe.



Dennis R. Norton, Mayor
Signed and sealed this 22nd day of September 2011



REVISED

Item: 2.F.1)

CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 22, 2011

FROM: FINANCE DEPARTMENT
DATE: SEPTEMBER 20, 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 Sep 2 and Sep 9, 2011.

DISCUSSION

The attached Check Registers for:

Date	Starting Check #	Ending Check #	Total Checks	Amount
9/2/11	67440	67475	36	\$84,590.14
9/9/11	67476	67546	71	\$113,367.71
9/9/11 Payroll				\$174,679.00
Total				\$372,636.85

The check register of 8/26/11 ended with check #67439.

Wires issued, and a brief description of the expenditure:
None

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
67448	CalPERS Health Ins	CM	Employee Health Ins, Oct2011, employee funded	\$51,428.01
67463	PG&E	PW	Monthly Gas & Elec	\$12,038.98
67480	Atchison, Barisone & Condotti	CM	Jul 2011 Legal Services	\$16,127.66
67529	SCC Auditor-Controller	PD	Citation Surcharges	\$15,779.00
67536	TLC Administrators Inc.	CM	Sep 2011 Dental & Vision Ins, employee funded	\$10,546.30

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 inter-fund 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)
- One quarter of the annual Worker's Compensation premium was paid in July (\$100,000)
- One half of the Self Insurance/Liability annual payment was paid in July (\$32,669)
- One third of the Police Communication JPA annual payment was paid in July (\$146,121)

As of 9/14/11 the total cash available is \$2,080,684. The General Operating Fund has a cash balance of \$31,683. 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 \$36,114. The Capital Improvement Projects has a positive cash balance of \$983,911. By Council direction the Emergency Reserves Fund (#1020) may not participate in cash loans; the Emergency Reserves Fund has a fund balance of \$96,531.

For cash flow purposes these funds are available to the General Fund. A consolidation of these cash balances results in a cash position of \$2,080,684.

The following table shows the funds that are consolidated:

CASH POSITION - CITY OF CAPITOLA 9/9/11

	<u>Net Balance</u>
General Fund	31,683
Worker's Comp. Ins. Fund	74,779
Self Insurance Liability Fund	124,585
Stores Fund	9,963
Information Technology Fund	106,638
Equipment Replacement	105,933
Compensated Absences Fund	36,114
Contingency Reserve Fund	330,000
Public Employee Retirement - PERS	276,821
Open Space Fund	256
Capital Improvement Projects	983,911
TOTAL GENERAL FUND & COUNCIL DESIGNATED FUNDS	2,080,684

The Emergency Reserve Fund balance is \$96,530.74 and is not included above.

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, loans in the amount of \$754,895.66 were made from the following funds to the general fund:

- From Contingency Reserve fund: \$404,895.66
- From Equipment Replacement fund: \$200,000.00
- From Information Technology fund: \$50,000.00
- From Self Insurance Liability fund: \$100,000.00

It is anticipated that these loans to General Fund will be repaid by June 30, 2012.

ATTACHMENTS:

Check Registers for Sep 2 and Sep 9, 2011.

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

**Reviewed and Forwarded
by City Manager:**



CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 22, 2011

FROM: FINANCE DEPARTMENT
 DATE: September 14, 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 Aug 19 and Aug 26, 2011.

DISCUSSION

The attached Check Registers for:

Date	Starting Check #	Ending Check #	Total Checks	Amount
9/2/11	67440	67475	36	\$84,590.14
9/9/11	67476	67546	71	\$113,367.71
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Information Technology Fund	106,638
Equipment Replacement	105,933
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Contingency Reserve Fund	330,000
Public Employee Retirement - PERS	276,821
Open Space Fund	256
Capital Improvement Projects	983,911
TOTAL GENERAL FUND & COUNCIL DESIGNATED FUNDS	2,080,684

The Emergency Reserve Fund balance is \$96,530.74 and is not included above.

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To resolve this cash flow issue, loans in the amount of \$754,895.66 were made from the following funds to the general fund:

- From Contingency Reserve fund: \$404,895.66
- From Equipment Replacement fund: \$200,000.00
- From Information Technology fund: \$50,000.00
- From Self Insurance Liability fund: \$100,000.00

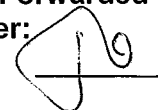
It is anticipated that these loans to General Fund will be repaid by June 30, 2012.

ATTACHMENTS:

Check Registers for Sep 2 and Sep 9, 2011.

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

**Reviewed and Forwarded
by City Manager:**




Checks dated 9/2/11 numbered 67440 to 67475 for a total of \$84,590.14 have been reviewed and authorized for distribution by the City Manager and City Treasurer.

As of 9/2/11 the unaudited cash balance is \$2,270,461

CASH POSITION - CITY OF CAPITOLA 9/2/11

	<u>Net Balance</u>
General Fund	229,666
Worker's Comp. Ins. Fund	74,779
Self Insurance Liability Fund	125,448
Stores Fund	12,523
Information Technology Fund	108,124
Equipment Replacement	105,933
Compensated Absences Fund	36,114
Contingency Reserve Fund	330,000
Public Employee Retirement - PERS	263,708
Open Space Fund	256
Capital Improvement Projects	983,911
TOTAL GENERAL FUND & COUNCIL DESIGNATED FUNDS	<u>2,270,461</u>

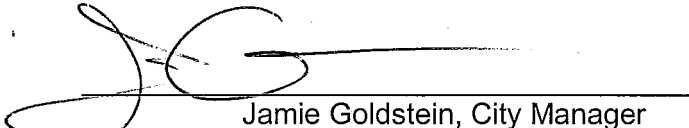
The Emergency Reserve Fund balance is \$103,885.74 and is not included above.

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, loans in the amount of \$954,895.66 were made from the following funds to the general fund:


From Contingency Reserve fund: \$604,895.66
From Equipment Replacement fund: \$200,000.00
From Information Technology fund: \$50,000.00
From Self Insurance Liability fund: \$100,000.00

It is anticipated that these loans to General Fund will be repaid by June 30, 2012.



Jamie Goldstein, City Manager

9/2/11
Date



Jacques J.J. Bertrand, City Treasurer

9.14.11
Date

City Checks Issued 9/2/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67440	09/02/2011	Open			ADT SECURITY SERVICES, INC.	\$256.41
	Invoice		Date	Description		Amount
	53333284		08/13/2011	Sep-Nov2011 Alarm Service		\$116.87
	53333278		08/13/2011	Sep-Nov2011 Alarm Service		\$139.54
67441	09/02/2011	Open			APTOS LANDSCAPE SUPPLY, INC.	\$56.34
	Invoice		Date	Description		Amount
	319172		08/18/2011	Top soil, Monterey Park		\$56.34
67442	09/02/2011	Open			BACK TO EDEN LANDSCAPING INC.	\$575.00
	Invoice		Date	Description		Amount
	2773		08/18/2011	Aug 2011 Landscape Svc, Pac Cove MHP		\$575.00
67443	09/02/2011	Open			BAYSIDE OIL II, INC.	\$55.00
	Invoice		Date	Description		Amount
	3841		08/05/2011	Oil Filter Recycle		\$55.00
67444	09/02/2011	Open			BRAGA, JOEL	\$400.00
	Invoice		Date	Description		Amount
	Jul-Aug11		08/29/2011	Softball Sport Official, Jul-Aug2011		\$400.00
67445	09/02/2011	Open			CA DEPT OF TRANSPORTATION	\$942.53
	Invoice		Date	Description		Amount
	99000493		08/23/2011	Signals & Lighting billing for May & June 201 Fund 1310, Gas Tax		\$942.53
67446	09/02/2011	Open			CADILLAC DESIGNS	\$206.50
	Invoice		Date	Description		Amount
	1629		08/29/2011	Movies at the Beach Banners		\$206.50
67447	09/02/2011	Open			CALIFORNIA LAW ENFORCEMENT ASSC	\$390.00
	Invoice		Date	Description		Amount
	CLEA-Sep11		08/18/2011	Long Term Disability Ins, PD		\$390.00
67448	09/02/2011	Open			CalPERS Health Insurance	\$51,428.01
	Invoice		Date	Description		Amount
	Oct2011		08/29/2011	Employee Health Ins, Oc2011, Employee Funded		\$51,428.01
67449	09/02/2011	Open			DELL COMPUTERS	\$390.77
	Invoice		Date	Description		Amount
	XFF7249J9		08/22/2011	Hard Drive-Fund 2211, Info Tech		\$390.77
67450	09/02/2011	Open			DEPT OF HOUSING AND COMMUNITY DEV (HCD)	\$430.00
	Invoice		Date	Description		Amount
	MHP-Aug11		08/29/2011	Use Fee, Purch of Mobil Home, Pac Cove Fund 2213, Sefl Ins Liability		\$430.00
67451	09/02/2011	Open			DIRECT SPORTS INC.	\$453.99
	Invoice		Date	Description		Amount
	1014765		08/09/2011	Sports equipment-Rec		\$453.99

City of Capitola
City Checks Issued 9/2/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67452	09/02/2011	Open			FEDERAL EXPRESS	\$150.97
	Invoice		Date	Description		Amount
	7-600-13850		08/19/2011	Shipping Expense, Jul-Aug11 Fund 1372=\$105.65		\$150.97
67453	09/02/2011	Open			GALLI UNIFORM COMPANY	\$1,423.49
	Invoice		Date	Description		Amount
	17735		08/05/2011	Parking Enforcement Patches-PD		\$460.06
	17740		08/05/2011	Chaplain/VIP stars-PD		\$270.63
	17741		08/05/2011	PD Shoulder Patches, 100 each		\$692.80
67454	09/02/2011	Open			HUB INTERNATIONAL OF CA INSURANC	\$100.21
	Invoice		Date	Description		Amount
	Jul2011		08/29/2011	Block Party Ins, Cert #87735, Jul 4 Fund 2213, Self Ins Liability		\$100.21
67455	09/02/2011	Open			KIMLEY-HORN AND ASSOCIATES, INC.	\$387.60
	Invoice		Date	Description		Amount
	4552537		07/31/2011	Parking Technology Equipment Specification Fund 1316, Parking Res Fund		\$387.60
67456	09/02/2011	Open			LABOR READY SOUTHWEST INC.	\$942.59
	Invoice		Date	Description		Amount
	60561559		08/19/2011	Temporary Staff-PW		\$942.59
67457	09/02/2011	Open			LAURENT, LARRY	\$90.70
	Invoice		Date	Description		Amount
	Reimb-Staples		08/29/2011	Reimb Purch of Printer Ink Cartridges Fund 2211, Info Technology		\$90.70
67458	09/02/2011	Open			MID-COUNTY AUTO SUPPLY	\$863.22
	Invoice		Date	Description		Amount
	271751		08/10/2011	auto parts-PD Ford Van		\$72.34
	271586		08/09/2011	auto parts, Ford Van		\$7.91
	271553		08/09/2011	auto parts, John Deere Loader		\$22.37
	271720		08/10/2011	auto parts, Shop		\$57.94
	271666		08/10/2011	auto parts, Shop		\$10.81
	271688		08/10/2011	auto parts, Ford Van		\$40.00
	271672		08/10/2011	auto parts, Ford Van		\$130.62
	271737		08/10/2011	auto parts, PD 2001 Impala		\$342.89
	271736		08/10/2011	auto parts, Ford Van		\$178.34
67459	09/02/2011	Open			MILLER'S TRANSFER & STORAGE CO.	\$233.80
	Invoice		Date	Description		Amount
	82326		08/06/2011	Aug Storage, Jul handling, Records Mgmt		\$233.80
67460	09/02/2011	Open			NELLA OIL COMPANY	\$2,131.73
	Invoice		Date	Description		Amount
	11-640096		08/18/2011	397 Gal Ethanol		\$1,770.56
	11-6400097		08/18/2011	91 Gal Diesel		\$361.17
67461	09/02/2011	Open			OLIVE SPRINGS QUARRY, INC.	\$521.33
	Invoice		Date	Description		Amount
	79145		08/15/2011	Base Rock		\$75.42
	79144		08/15/2011	Asphalt		\$445.91

City Checks Issued 9/2/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67462	09/02/2011	Open			ORCHARD SUPPLY HARDWARE	\$155.82
	Invoice		Date	Description	Amount	
	6009-2684098		08/15/2011	Garbage cans	\$155.82	
67463	09/02/2011	Open			PACIFIC GAS & ELECTRIC	\$12,038.98
	Invoice		Date	Description	Amount	
	2012-00000218		08/16/2011	Monthly Elec	\$12,038.98	
				Fund 1300, SLESF=\$233.95		
				Fund 1310, Gas Tax=\$6188.70		
				Fund 1311, Wharf Fund=\$2195.91		
67464	09/02/2011	Open			PACIFIC GAS & ELECTRIC	\$514.16
	Invoice		Date	Description	Amount	
	2012-00000219		08/29/2011	Pac Cove MHP Elec and Gas	\$514.16	
67465	09/02/2011	Open			PACIFIC VETERINARY SPECIALISTS INC	\$138.65
	Invoice		Date	Description	Amount	
	193283		08/08/2011	Animal Control Expense-PD	\$138.65	
67466	09/02/2011	Open			PALACE ART & OFFICE SUPPLIES	\$1,644.01
	Invoice		Date	Description	Amount	
	917295		08/11/2011	Office Supplies, City hall	\$43.29	
	917465		08/12/2011	Office supplies-PD	\$26.37	
	917477		08/12/2011	office supplies-PD	\$79.67	
	916342-1		08/05/2011	office supplies-PD	\$53.24	
	916558		08/05/2011	office supplies-PD	\$70.56	
	916769		08/09/2011	Office supplies-PD	\$81.57	
	916902		08/09/2011	general office supplies-PD	\$86.78	
	917143		08/10/2011	Toner-PD	\$736.41	
	917471		08/15/2011	Office supplies mail boxes	\$400.53	
	917779		08/15/2011	office supplies detective office	\$87.47	
	C916764		08/15/2011	Return Misc Supplies, City Hall	(\$21.64)	
	918186		08/17/2011	Office Supplies, City Hall	\$32.99	
	C917477		08/18/2011	Return Office Supplies, PD	(\$79.67)	
	918703		08/19/2011	Paper-PD	\$46.44	
67467	09/02/2011	Open			PRAXAIR DISTRIBUTION INC.	\$58.51
	Invoice		Date	Description	Amount	
	40478753		08/20/2011	acetylene-Corp Yd	\$58.51	
67468	09/02/2011	Open			SCC INFORMATION SERVICES	\$704.99
	Invoice		Date	Description	Amount	
	Q3-Radio		08/03/2011	April 1 to June 30 2011 Radio Shop	\$704.99	
67469	09/02/2011	Open			SCC OFFICE OF EDUCATION	\$90.00
	Invoice		Date	Description	Amount	
	11304		08/03/2011	Fingerprinting, New Hires x 3	\$90.00	
67470	09/02/2011	Open			SPRING VALLEY WHOLESALE NURSER	\$153.90
	Invoice		Date	Description	Amount	
	2968		08/19/2011	Redwood trees	\$153.90	

City Checks Issued 9/2/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount	
67471	09/02/2011	Open			US BANCORP EQUIPMENT FINANCE, IN	\$345.56	
	Invoice		Date	Description		Amount	
	183679646		08/15/2011	Monthly Copier Lease and Annual Prop Tax		\$345.56	
67472	09/02/2011	Open			ZUMAR INDUSTRIES INC.	\$971.07	
	Invoice		Date	Description		Amount	
	0132642		08/18/2011	Street name signs		\$971.07	
67473	09/02/2011	Open			Adler, Pamela	\$40.00	
	Invoice		Date	Description		Amount	
	2012-00000220		08/30/2011	Refund cite CP240809		\$40.00	
67474	09/02/2011	Open			Shoaf, David	\$660.00	
	Invoice		Date	Description		Amount	
	2012-00000216		08/24/2011	Planner Cost Recovery Refund		\$660.00	
67475	09/02/2011	Open			CAR Construction	\$4,644.30	
	Invoice		Date	Description		Amount	
	728		8/1/2011	Ramp Upgrade, Council Chambers		\$4,644.30	
Check Totals:				Count	36	Total	\$84,590.14

Checks dated 9/9/11 numbered 67476 to 67546 for a total of \$113,367.71 have been reviewed and authorized for distribution by the City Manager and City Treasurer.

As of 9/9/11 the unaudited cash balance is \$2,060,372

CASH POSITION - CITY OF CAPITOLA 9/9/11

	<u>Net Balance</u>
General Fund	11,371
Worker's Comp. Ins. Fund	74,779
Self Insurance Liability Fund	124,585
Stores Fund	9,963
Information Technology Fund	106,638
Equipment Replacement	105,933
Compensated Absences Fund	36,114
Contingency Reserve Fund	330,000
Public Employee Retirement - PERS	276,821
Open Space Fund	256
Capital Improvement Projects	983,911
TOTAL GENERAL FUND & COUNCIL DESIGNATED FUNDS	<u>2,060,372</u>


The Emergency Reserve Fund balance is \$96,530.74 and is not included above.

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, loans in the amount of \$954,895.66 were made from the following funds to the general fund:

From Contingency Reserve fund: \$604,895.66
From Equipment Replacement fund: \$200,000.00
From Information Technology fund: \$50,000.00
From Self Insurance Liability fund: \$100,000.00

It is anticipated that these loans to General Fund will be repaid by June 30, 2012.



Jamie Goldstein, City Manager



Jacques J.J. Bertrand, City Treasurer

9/9/11

Date

9.14.11

Date

City of Capitola
City Checks Issued 9/9/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67476	09/09/2011 Invoice 4092	Open	Date 08/24/2011	Description Sweeper brooms Fund 1310, Gas Tax	ACME ROTARY BROOM SERVICE	\$508.68
67477	09/09/2011 Invoice 6580	Open	Date 08/23/2011	Description Comm Rm and Chambers Blinds deposit Fund 1320, PEG	ADVANCED BLIND AND SHADE	\$700.53
67478	09/09/2011 Invoice 42656 42617	Open	Date 08/29/2011 08/31/2011	Description Keys - PD Museum Lock repair	ALLSAFE LOCK COMPANY	\$131.76
67479	09/09/2011 Invoice 320092	Open	Date 09/01/2011	Description Pathway stones	APTOS LANDSCAPE SUPPLY, INC.	\$35.40
67480	09/09/2011 Invoice 1040E-Jul11 1040E-Jul2011	Open	Date 07/31/2011 07/30/2011	Description Additional Legal Fees, Jul2011 Jul 2011 Legal Services	ATCHISON, BARISONE, & CONDOTTI	\$16,127.66
67481	09/09/2011 Invoice 2012-00000227	Open	Date 09/01/2011	Description Softball Officials Aug 8 to Sept 2, 2011	BEYERS, FRED, C	\$220.00
67482	09/09/2011 Invoice 2956653	Open	Date 08/24/2011	Description Repair parks trailer	BIG CREEK LUMBER	\$100.40
67483	09/09/2011 Invoice 2012-00000228	Open	Date 09/01/2011	Description Softball Officials Aug 8 to Sept 2, 2011	BUMGARNER, ERIC, D	\$189.00
67484	09/09/2011 Invoice POA9-9-11	Open	Date 09/08/2011	Description POA dues, 9/9/11, Employee Funded	CAPITOLA PEACE OFFICERS ASSOC.	\$753.08
67485	09/09/2011 Invoice 163422	Open	Date 08/18/2011	Description auto parts	CHEVROLET OF WATSONVILLE	\$4.93
67486	09/09/2011 Invoice 102	Open	Date 08/30/2011	Description Green Building Program, Sea Star Markers	Clark, Jerry	\$550.00
67487	09/09/2011 Invoice 8632	Open	Date 07/31/2011	Description Jul2011 Cleaning Service, all sites	CLEAN BUILDING MAINTENANCE	\$3,542.00

City of Capitola
City Checks Issued 9/9/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67488	09/09/2011	Open			CLEAN SOURCE	\$215.07
	Invoice		Date	Description		Amount
	1863164-01		08/02/2011	Doggie bags		\$243.56
	1001571		08/12/2011	Cleaning supplies		\$1,569.01
	1001571-01		08/19/2011	Absorbent		\$55.47
	1010358-01		08/26/2011	Doggie bags		\$243.56
	1014993		08/26/2011	Cleaning supplies		\$233.44
	Aug Stmt		04/11/2011	Credit for Price Adjustment, Apr Inv, per Sh		(\$2,129.97)
67489	09/09/2011	Open			COMMUNITY TELEVISION OF SCC	\$471.04
	Invoice		Date	Description		Amount
	PEGLineFees		08/01/2011	Q4 FY10/11 PEG Fees for 736 Lines Fund 1320, PEG		\$471.04
67490	09/09/2011	Open			CVS PHARMACY INC.	\$75.66
	Invoice		Date	Description		Amount
	5009		08/22/2011	Lifeguard supplies		\$75.66
67491	09/09/2011	Open			D & G SANITATION	\$814.39
	Invoice		Date	Description		Amount
	189715		08/31/2011	Portable toilets-Fund 1311, Wharf		\$814.39
67492	09/09/2011	Open			DE LAGE LANDEN FINANCIAL SERVICE	\$334.07
	Invoice		Date	Description		Amount
	10561594		08/20/2011	Monthly Lease Payment, City Hall Copier Fund 2210, Stores		\$334.07
67493	09/09/2011	Open			DESMOND, MARCELLO & AMSTER, LLC	\$2,025.00
	Invoice		Date	Description		Amount
	298394		08/05/2011	Valuation Services, Pac Cove MHP Fund 1020, Emergency Res		\$2,025.00
67494	09/09/2011	Open			DIGBY, JOHN W.	\$1,120.00
	Invoice		Date	Description		Amount
	0002		08/26/2011	Install flotation dock Fund 1311, Wharf		\$1,120.00
67495	09/09/2011	Open			EWING IRRIGATION	\$51.00
	Invoice		Date	Description		Amount
	3778431		08/23/2011	Irrigation supplies		\$41.18
	3787122		08/24/2011	Mulch		\$9.82
67496	09/09/2011	Open			EXTRA SPACE STORAGE OF SC	\$262.00
	Invoice		Date	Description		Amount
	2522221-Sep11		08/30/2011	Evidence Storage Exp, PD		\$262.00
67497	09/09/2011	Open			HOWARD, CHARLIE	\$1,460.00
	Invoice		Date	Description		Amount
	Aug4		09/05/2011	Mechanic		\$740.00
	Sep1		09/05/2011	Mechanic		\$720.00
67498	09/09/2011	Open			ICMA RETIREMENT TRUST 457	\$6,902.36
	Invoice		Date	Description		Amount
	ICMA9-9-11		09/08/2011	Retirement Plan Deposit 9-9-11		\$6,902.36

City Checks Issued 9/9/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67499	09/09/2011 Invoice 2012-00000232	Open	Date 09/01/2011	Description Softball Officials Aug 8 to Sept 2, 2011	JENNINGS, LINDA	\$234.00 \$234.00
67500	09/09/2011 Invoice W02013 W02115 W02124	Open	Date 08/23/2011 09/01/2011 09/02/2011	Description Plumbing repair - Wharf House(Fund 1311) Esplanade bathrooms Drain PCMHP laundry room	JIMMIE SMITH PLUMBING, INC.	\$1,686.14 \$590.36 \$647.40 \$448.38
67501	09/09/2011 Invoice 20110820	Open	Date 08/20/2011	Description Uniform cleaning-PD	KING'S CLEANERS	\$728.00 \$728.00
67502	09/09/2011 Invoice 60871559	Open	Date 08/26/2011	Description Temporary Staff-PW	LABOR READY SOUTHWEST INC.	\$1,023.06 \$1,023.06
67503	09/09/2011 Invoice 18611	Open	Date 08/26/2011	Description Prune Myoporum trees - Esplanade Park	LEWIS TREE SERVICE INC.	\$800.00 \$800.00
67504	09/09/2011 Invoice 2012-00000229	Open	Date 09/01/2011	Description Softball Officials Aug 8 to Sept 2, 2011	LUICH, JAY	\$132.00 \$132.00
67505	09/09/2011 Invoice R5 T1	Open	Date 09/06/2011 09/05/2011	Description Riparian Restoration FY 11/12 Tree Work, Erosion Control, Native Planting Fund 1020,. Emergency Res=\$1590.00	McMENAMIN, GEORGE	\$2,205.90 \$615.90 \$1,590.00
67506	09/09/2011 Invoice 20110909	Open	Date 08/18/2011	Description Projectionist Services, Sep 9, Movies @ the	FRED MENG AUDIO VISUAL SERVICES	\$600.00 \$600.00
67507	09/09/2011 Invoice in1228429	Open	Date 08/15/2011	Description Gloves, 2 boxes-PD	MICROFLEX CORP #774353	\$250.72 \$250.72

City of Capitola
City Checks Issued 9/9/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67508	09/09/2011	Open			MID-COUNTY AUTO SUPPLY	\$219.40
	Invoice		Date	Description		Amount
	273365		08/24/2011	auto parts-PW PU F-150		\$170.33
	273690		08/26/2011	auto parts-Parks Trailer		\$10.72
	273672		08/26/2011	auto parts-Parks Trailer		\$29.07
	273151		08/22/2011	auto parts-Shop		\$8.09
	273166		08/22/2011	auto parts-2011 Impala		\$23.31
	272907		08/19/2011	auto parts-2001 Impala		\$83.14
	273239		08/23/2011	auto parts-Shop		\$5.30
	273315		08/23/2011	auto parts-2001 Impala		\$13.51
	272684		08/18/2011	auto parts-2001 Impala		\$5.74
	272688		08/18/2011	auto parts-2001 Impala		\$14.60
	272272		08/15/2011	auto parts-Shop		\$80.00
	272395		08/16/2011	auto parts-2001 Impala		\$52.87
	272392		08/16/2011	auto parts-PD Motorcycle		\$86.55
	272385		08/16/2011	auto parts-PD Motorcycle		\$225.96
	272215		08/15/2011	auto parts-2001 Impala		\$16.48
	272384		08/16/2011	Credit return, Auto parts		(\$579.40)
	271778		08/11/2011	Return Auto Parts		(\$54.13)
	274086		08/30/2011	Socket & misc.		\$27.26
67509	09/09/2011	Open			Montano Plumbing, Inc.	\$1,190.00
	Invoice		Date	Description		Amount
	21660		09/08/2011	Replace Pt of Use Hot Water, City Hall		\$1,190.00
67510	09/09/2011	Open			MONTEREY BAY AREA SELF INS AUTH	\$90.00
	Invoice		Date	Description		Amount
	MBA11-0324X		08/12/2011	Claim Settlement, Jackson Fund 2213, Self Ins Liability		\$90.00
67511	09/09/2011	Open			MONTEREY BAY AREA SELF INS AUTH	\$772.20
	Invoice		Date	Description		Amount
	MBA11-0324		08/12/2011	Flood Claim Payment Fund 2213, Self Ins Liability		\$772.20
67512	09/09/2011	Open			NELLA OIL COMPANY	\$2,142.00
	Invoice		Date	Description		Amount
	11-642916		08/25/2011	334 Gal Ethanol		\$1,353.70
	11-642917		08/25/2011	200 Gal Diesel		\$788.30
67513	09/09/2011	Open			NEW WORLD SYSTEMS	\$945.00
	Invoice		Date	Description		Amount
	13442		08/15/2011	Customer Conference, 2011		\$945.00
67514	09/09/2011	Open			ORCHARD SUPPLY HARDWARE	\$346.03
	Invoice		Date	Description		Amount
	6011-4795604		08/17/2011	Misc.		\$29.40
	6008-3529507		08/18/2011	Misc.		\$25.42
	6007-9064685		08/19/2011	Cleaning supplies		\$63.82
	6007-3525700		08/23/2011	Graffiti cleanup		\$16.50
	6006-4761555		08/22/2011	Lifeguard uniforms		\$52.24
	6013-1230462		08/25/2011	Floating dock supplies		\$28.81
	6011-4797373		08/25/2011	Garbage cans		\$129.84

City Checks Issued 9/9/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67515	09/09/2011	Open			OVERLAND, PACIFIC & CUTLER, INC.	\$3,740.00
	Invoice		Date	Description	Amount	
	1107097		08/11/2011	Pac Cove Relocation Study Fund 1020, Emergency Res	\$3,740.00	
67516	09/09/2011	Open			PACIFIC WASTE CONSULTING GROUP	\$5,300.00
	Invoice		Date	Description	Amount	
	11-11313		08/11/2011	2010 Annual Report for CalRecycle	\$5,300.00	
67517	09/09/2011	Open			PALACE ART & OFFICE SUPPLIES	\$2,411.54
	Invoice		Date	Description	Amount	
	917880		08/16/2011	Office supplies-PD	\$34.90	
	918186-1		08/18/2011	Office Supplies, City hall	\$12.74	
	918919		08/22/2011	office Supplies, City Hall	\$139.32	
	919260		08/24/2011	Office Supplies, City Hall	\$9.66	
	919841		08/26/2011	Office supplies-Fund 2210, Stores	\$167.50	
	919893		08/29/2011	Office Supplies, City Hall-Fund 2210, Stores	\$43.33	
	917202		08/17/2011	Office supplies-PD	\$86.58	
	13689		09/01/2011	Office furniture for Chief's office	\$1,530.22	
	14747		08/02/2011	cabinet for front office-PD	\$387.29	
67518	09/09/2011	Open			PFX PET SUPPLY, LLC	\$83.52
	Invoice		Date	Description	Amount	
	CD11701436		08/23/2011	K-9 supplies-PD	\$83.52	
67519	09/09/2011	Open			PHIL ALLEGRI ELECTRIC, INC.	\$4,629.91
	Invoice		Date	Description	Amount	
	16189		08/24/2011	Street lights - Capitola Rd.	\$817.34	
	16123		07/27/2011	Floor Outlets for data & sound, Council Cha Fund 1320-Peg=\$3812.57	\$3,812.57	
67520	09/09/2011	Open			PITNEY BOWES INC.	\$146.14
	Invoice		Date	Description	Amount	
	591463		08/16/2011	Postage meter rental	\$146.14	
67521	09/09/2011	Open			PITNEY BOWES INC.	\$2,019.99
	Invoice		Date	Description	Amount	
	Aug2011		08/19/2011	Postage Refill, City Hall Meter, Aug 2011 Fund 2210, Stores	\$2,019.99	
67522	09/09/2011	Open			ProBUILD COMPANY LLC	\$26.83
	Invoice		Date	Description	Amount	
	5552753		08/25/2011	Parks trailer	\$26.83	
67523	09/09/2011	Open			QUARTARARO, ROD V.	\$198.00
	Invoice		Date	Description	Amount	
	2012-00000231		09/01/2011	Softball Officials Aug 8 to Sept 2, 2011	\$198.00	
67524	09/09/2011	Open			RED SHIFT INTERNET SERVICES	\$115.11
	Invoice		Date	Description	Amount	
	1462340		08/01/2011	Aug2011 Internet Access-Fund 2211, IT	\$65.17	
	1462341		08/01/2011	Aug 2011 Internet Access	\$49.94	

City Checks Issued 9/9/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67525	09/09/2011 Invoice 2012-00000226	Open	Date 09/01/2011	Description Softball Officials Aug 8 to Sept 2, 2011	REED, DANIEL H.	\$231.00 \$231.00
67526	09/09/2011 Invoice RR115541 RR-115542	Open	Date 08/12/2011 08/12/2011	Description FY 11/12 Traffic Signal Maintenance FY 11/12 Traffic Signal Maintenance Fund 1310, Gas Tax	REPUBLIC ITS INC.	\$1,151.36 \$698.24 \$453.12
67527	09/09/2011 Invoice 2012-00000230	Open	Date 09/01/2011	Description Softball Officials Aug 8 to Sept 2, 2011	RODGERS, PETER A	\$154.00 \$154.00
67528	09/09/2011 Invoice 81511	Open	Date 08/15/2011	Description August 2011	ROSEMAN, LEWIS	\$2,947.24 \$2,947.24
67529	09/09/2011 Invoice Jul2011	Open	Date 08/01/2011	Description Jul 2011 Citation Surcharges	SCC AUDITOR-CONTROLLER	\$15,779.00 \$15,779.00
67530	09/09/2011 Invoice 2012-00000225	Open	Date 08/18/2011	Description WATER BILLS FOR STREET MEDIANS	SANTA CRUZ MUNICIPAL UTILITIES	\$729.20 \$729.20
67531	09/09/2011 Invoice 4105906-082811	Open	Date 08/31/2011	Description Employment Advertisement	SANTA CRUZ SENTINEL	\$289.52 \$289.52
67532	09/09/2011 Invoice Summer2011	Open	Date 09/01/2011	Description Art Wall Project, Monterey Ave. Fund 1315, Public Arts	SEGURA, ROY	\$7,000.00 \$7,000.00
67533	09/09/2011 Invoice 300699	Open	Date 08/25/2011	Description Plants	SOQUEL NURSERY GROWERS, INC.	\$52.76 \$52.76
67534	09/09/2011 Invoice 1452539	Open	Date 08/18/2011	Description Printer Ink Cartridges Fund 2211, IT	STAPLES	\$48.15 \$48.15
67535	09/09/2011 Invoice 2012-00000233	Open	Date 09/02/2011	Description Volleyball Official August 2011	THILL, WENDY	\$40.00 \$40.00
67536	09/09/2011 Invoice 93030-Sep11	Open	Date 09/01/2011	Description Sep 2011 Dental & Vision Ins, Employee Ft	TLC ADMINISTRATORS, INC.	\$10,546.30 \$10,546.30

City of Capitola
City Checks Issued 9/9/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
67537	09/09/2011 Invoice 14553	Open	Date 09/01/2011	Description Admin Fee, Section 125 Plan	TLC ADMINISTRATORS, INC.	\$175.00
67538	09/09/2011 Invoice PARS9-9-11	Open	Date 09/08/2011	Description PARS Contr for 9-9-11, Employee Funded	UNION BANK OF CALIFORNIA	\$698.58
67539	09/09/2011 Invoice 185438926	Open	Date 08/31/2011	Description Copies Lease, Rec	US BANCORP EQUIPMENT FINANCE	\$136.52
67540	09/09/2011 Invoice 60469	Open	Date 08/24/2011	Description Capitola Library HVAC	WESTERN ALLIED MECHANICAL INC.	\$1,491.23
67541	09/09/2011 Invoice 2012-00000235	Open	Date 09/02/2011	Description Basic Gang Investigation, Eller	CCGIA	\$100.00
67542	09/09/2011 Invoice A2-31029993	Open	Date 08/09/2011	Description Corner guards	Construction Specialties Inc	\$244.63
67543	09/09/2011 Invoice 2012-00000134	Open	Date 08/02/2011	Description Junior Leaders Session 3	Davis-Enelow, Jesse	\$81.00
67544	09/09/2011 Invoice 31307	Open	Date 08/18/2011	Description K-9 supplies-PD	Elite K-9 Inc	\$522.70
67545	09/09/2011 Invoice 11-086	Open	Date 09/02/2011	Description Tree Deposit Refund #11-086	Oritz, Gayle	\$500.00
67546	09/09/2011 Invoice 2012-00000224	Open	Date 08/30/2011	Description Refund Developer Deposit -509 Hill Street	Portman, James	\$1,820.00

Check Totals: Count 71 Total \$113,367.71



Item #: **3.B.**

CITY COUNCIL/REDEVELOPMENT AGENCY AGENDA REPORT

MEETING OF SEPTEMBER 22, 2011

FROM: OFFICE OF THE CITY CLERK/REDEVELOPMENT AGENCY SECRETARY

DATE: SEPTEMBER 15, 2011

SUBJECT: **CAPITOLA CITY COUNCIL/REDEVELOPMENT AGENCY MINUTE APPROVAL:**
MINUTES OF THE JOINT REGULAR MEETING OF THE CAPITOLA CITY COUNCIL/
REDEVELOPMENT AGENCY OF SEPTEMBER 8, 2011

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 Minutes to the Joint Meeting of September 8, 2011.

ATTACHMENTS

September 8, 2011 Minutes

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**

September 8, 2011
Capitola, California

MINUTES OF A REGULAR JOINT MEETING

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

At 5:37 p.m. in the City Hall Council Chambers, Mayor/Chairperson Norton noted that all Council Members/Redevelopment Agency Directors were present. Mayor/Chairperson Norton 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)]

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]

Bill Newman, et al. (residents of Surf & Sand Mobile Home Park) vs. Surf and Sand, LLC, Ronald Reed, et al. [Superior Court County of Santa Cruz, Unlimited Jurisdiction, Case No. CV 171783]

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to subdivision (b) of Government Code §54956.9:
One Case – Noble Gulch Storm Drain Failure in Pacific Cove Mobile Home Park

PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code Section 54957)

Title: City Manager

CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Govt. Code §54956.8)

Property: McGregor Drive, APN 36-341-02 (City of Capitola, Owner)
City Negotiator: City Manager
Negotiating Parties: City and Soquel Creek Water District
Under Negotiation: Real Property Lease/Sale

Mayor/Chairperson Norton noted that there was no one in the audience; therefore, the City Council/Redevelopment Agency recessed at 5:38 p.m. to the Closed Session in the City Manager's Office.

7:00 P.M. – OPEN SESSION

Mayor/Chairperson Norton called the Regular Joint Meeting of the Capitola City Council/Redevelopment Agency to order at 7:11 p.m. on Thursday, September 8, 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/RDA General Counsel John G. Barisone, Community Development Director/Deputy Executive Director Derek Johnson, Chief of Police Michael Card, Public Works Director Steve Jesberg, Administrative Services Director Lisa Murphy, and City Clerk/Secretary Pamela Greeninger

Mayor Norton stated that he would like everyone to remain standing following the pledge of allegiance. After the pledge, Mayor Norton asked that everyone join him for a moment of silence for Deputy City Attorney Celestial Deputy City Attorney Cassman, who passed away this week. He then announced that tonight's meeting would be adjourned in her memory and that the City Hall flag would be flown at half-staff for Celestial.

*** * * PRESENTATIONS * * ***

**Capitola Public Safety & Community Service Foundation
 Raffle Drawing for Trip to Costa Rica and other Cash Prizes [485-10]**

Prior to the raffle, Lin Banks, on behalf of the Capitola Begonia Festival Committee, wished to thank the City Council for its outstanding, continued support of the Begonia Festival. This year's event was a big success, and they are looking forward to planning next year's event.

Michael Banks, spokesperson for the Capitola Public Safety & Community Service Foundation, discussed the Foundation's contributions to public safety and community service projects. He discussed their interest in raising money for the Foundation in ways other than the car show and the golf tournament. An individual came up with the idea of a raffle for a vacation at a condominium in Costa Rica. He said the Grand Prize consists of a one-week vacation at the condo plus \$2,000 to aid with transportation costs. In addition, a total of \$2,000 will be given out during the drawing.

Mr. Banks brought forth an envelope with the tickets that had been purchased, which had been sealed and initialed by Dave Peyton at the Capitola-Soquel Chamber of Commerce. City Treasurer Jacques Bertrand assisted Michael Banks with the drawing. He verified that the envelope was sealed and put the tickets in the drum. He then mixed up the tickets and drew the winning tickets. The following winners were announced:

\$100 to Hank Arai, Sonia Seaman and Dennis Norton
 \$200 Pam Greeninger
 \$250 Karen Valentino
 \$500 Richard Hill
 \$750 Sue Barthol

Mr. Banks then provided the winning ticket to Mayor Norton who announced the Grand Prize winner: David Banks. Michael Banks said all donations to the Foundation are tax deductible and thanked everyone who participated in the raffle.

**Mayor's Proclamation
 Proclaiming Friday, September 16, 2011
 "Santa Cruz Follies Day" [120-40]**

Mayor Norton read the "Santa Cruz Follies Day" proclamation and encouraged all citizens to support the Follies by attending a performance on September 16 at either 1 p.m. or 7:30 p.m. at the Santa Cruz Civic Auditorium.

Joel Ricca, volunteer for the Follies, accepted the proclamation. Mr. Ricca said the Follies cast was rehearsing tonight and could not be at the meeting to accept the proclamation. He thanked the Mayor for this recognition on their behalf.

1. REPORT ON CLOSED SESSION [520-25]

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

He said the Council had a litigation session where it heard from the city attorney and Deputy City Attorney Adair Paterno. The Council was provided with status reports on the following matters: Implementation of the Surf and Sand Mobile Home Park settlement agreement, Shepardson vs. City of Capitola, and Newman vs. Surf and Sand, LLC, Ronald Reed, et al., in which the city has been sued as a Cross-Defendant. The Council heard from Deputy City Attorney Adair Paterno and the City Manager regarding those matters but took no reportable action.

The Council also heard from the city attorney and the city manager with respect to the litigation exposure resulting from damages incurred during the March 24, 2011, storm in the City of Capitola. The Council received a brief status report and took no reportable action in Closed Session.

The Council conducted a performance evaluation of the City Manager in closed session and took no reportable action.

The City Manager reported on the ongoing real property negotiations for a portion of the City's McGregor Drive parcel, which the Soquel Creek Water District is hoping to acquire for the purpose of installing a pump station. The City Council provided instructions to City Manager Goldstein regarding ongoing negotiations and took no reportable action in Closed Session.

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

Mayor Norton asked if there were any additions or deletions to the agenda.

ACTION: Council Member Termini moved, seconded by Council Member Storey, to continue Item 4.A., the Public Hearing pertaining to the second reading of the Mobile Home Park Rent Control ordinance, indefinitely.

Under discussion of the motion, Council Member Nicol asked how many people were here for Item 4.A. After a show of hands, he then asked how many people were here for a second time to hear the council deliberate on Item 4.A. He thanked them for their interest.

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

B. Public Comments

1) Irving Richman, resident of Cabrillo Mobile Home Estates, addressed the Council regarding his oral communication at the August 25, 2011, City Council Meeting, and his removal from the chambers. Mr. Richman said to the citizens of Capitola that it is time to recall members of the City Council who show no respect for the rights of the citizens of Capitola. He said, "Council members are your servants; not your masters." Citizens should dismiss those servants who have betrayed the trust and replace them.

2) Laura Tucker said she was offended to be asked to purchase a \$100 raffle ticket at the meeting.

3) The following people addressed the City Council regarding Item 4.A. pertaining to repealing of the City's rent control ordinance, which was continued indefinitely. **[750-25]**

Carol Lerno, resident of Pacific Cove Mobile Home Park

Laura Tucker, Cabrillo Mobile Home Estates Space #39, commented on the lease tenants at her mobile home park were required to sign, as well as her opposition to repealing the City's rent control ordinance.

2. B. 3) ORAL COMMUNICATIONS (Continued)

Pedro Gonzales addressed the City Council, speaking in Spanish. Sigolene Ortega translated Mr. Gonzales' statements. Mr. Gonzales discussed the effects of repealing mobile home park rent control in Santa Cruz, and he urged the Council not to repeal Capitola's rent control ordinance.

Emily Zimmerman, representing the Santa Cruz County Workers Benefit Council, commented on the actions of the law firm Hart, King & Coldren and urged the Council to revoke the amendment to the city's rent control ordinance.

Attorney Phil Crawford, on behalf of the homeowners of Surf and Sand Mobile Home Park, wished to thank Council Members Harlan and Storey for supporting rent control. He also wished to thank Mayor Norton and Council Member Termini for keeping an open mind at this time and looking carefully at this issue. He also expressed his regret that HKC has cross-filed in their complaint against the City, saying it was not their intent to bring the City into this matter.

Bill Newman, resident of Surf and Sand Mobile Home Park

Thomas Newman, Bill Newman's son

Maria Newman, Bill Newman's granddaughter

Nicholas Whitehead, a resident of a mobile home park in Live Oak, suggested that perhaps the best way to do this is to go to the state seeking very clear rulings; perhaps it does not need to go to the court, but could be decided within the administrative structure of the state through the Department of Housing and Community Development, the Department of Commerce, and Consumer Affairs. Mr. Whitehead said he has written to Assemblymember Bill Monning, and he would recommend the residents appeal to the state in this regard.

Tracy Smith, daughter of a resident of Surf and Sand Mobile Home Park, addressed illegal requirements within the lease; i.e., moving the lot line or the coach.

Nancy Brewer, resident of Surf and Sand Mobile Home Park

Laurie Brewer, Surf and Sand Mobile Home Park resident

Gini Calande, resident of Surf & Sand Mobile Home Park, first offered a word of condolence to City Attorney John Barisone and to city staff for the loss of Celestial Deputy City Attorney Cassman, who was an advocate for affordable housing and at-risk youth. Ms. Calande went on to discuss inflammatory rhetoric about rent control in our community.

Lauri Beamish, Surf and Sand Mobile Home Park resident, thanked the council for the reprieve from repeal of the City's rent control ordinance.

C. Staff Comments – NoneD. City Council/RDA Director/Treasurer Comments/Committee Reports

1) Council Member Storey wished to respond to some of the comments made tonight pertaining to the Surf & Sand Mobile Home Park and the city's rent control ordinance. He wanted to let the residents know that he hopes they can reach some sort of mutual understanding. He commented on email messages he has received and why he has not responded to some. Council Member Storey said there are practical issues the City needs to work on and to deal with, and the City needs practical solutions from the residents. He said that takes an understanding of the state of the City, the financial burden, and the City Council's responsibility to look out for the collective well being of all the residents of Capitola, including the residents of the mobile home parks. Council Member Storey would be happy to sit down with the residents and talk over the situation in order to reach a better understanding and, without threatening to sue the City, hopefully arrive at some mutual understanding of the complexity on both sides. He thanked everyone for coming out tonight.

2) Council Member Harlan encouraged the residents of Surf & Sand Mobile Home Park to put pressure on the State to visit the park to address the electrical and other issues at the park.

2. D. ORAL COMMUNICATIONS (Continued)

3) Council Member Harlan wished to congratulate the Begonia Festival Committee on a wonderful festival last Labor Day Weekend. She encouraged everyone to enjoy the Art & Wine Festival this weekend in the Village, and the Santa Cruz County Fair the following week at the Fairgrounds in Watsonville.

4) Council Member Termini announced the Movie on the Beach on Friday night will be “Beetle Juice,” and he invited everyone to come down to the beach to enjoy the movie.

The City Council took a short break at 8:22 p.m. and reconvened at 8:33 p.m.

E. Committee Appointments1) **Appointment to fill vacancy of Council Member Termini’s Appointee to the Commission on the Environment. [430-05/110-10]**

Council Member Termini took pleasure in presenting Uriah Langmeyer, saying he had the opportunity to speak to Uriah about his interest in serving on the commission, and Council Member Termini believes he would be a tremendous asset. With the concurrence of the City Council, Council Member Termini said he would like to appoint Uriah Langmeyer to the Commission on the Environment.

ACTION: It was the consensus of the City Council to approve Council Member Termini’s appointment of Uriah Langmeyer to the Commission on the Environment to fill the vacancy of an unexpired term ending December 2012.

Uriah Langmeyer thanked the council for its appointment to the Commission on the Environment. He said he is a lifelong resident of Capitola, having attended Capitola Elementary School, New Brighton Middle School, Soquel High and Cabrillo College. He is looking forward to working with the Commission’s Youth Member, Kate Sylvan, on an environmental policy, working to build youth involvement in the City as a whole, as well as an extensive 41st Avenue business recycling program.

F. Approval of Check Register Reports1) **City: Approval of City Check Register Reports dated August 19, 2011, and August 26, 2011. [300-10]**

ACTION: Council Member Harlan moved, seconded by Council Member Storey, to approve the Check Register Reports dated August 19 and 26, 2011, including checks numbered 67274 through 67347 in the amount of \$51,492.13, checks numbered 67348 through 67439 in the amount of \$153,667.58, respectively; and payroll disbursements for the August 26, 2011, payroll in the amount of \$192,938.24, for a Grand Total of \$398,097.95, 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 Reports dated August 26, 2011. [760-25]**

ACTION: Director Harlan moved, seconded by Director Storey, to approve the Check Register Report dated August 26, 2011, including checks numbered 2992 through 2995 in the amount of \$1,030.26, 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 make some brief comments on Item 3.C., Planning Commission Action Minutes. *(See comments under that item below.)*

Mayor/Chairperson Norton commented on Item 3.D. pertaining to the Rispin Mansion. *(See comments under that item on Page 12064.)*

CONSENT CALENDAR ACTION: Council Member/Director Harlan moved, seconded by Council Member/Director Nicol, 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/Redevelopment Agency Directors 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 Minutes of the Regular Joint Meetings of the City Council/Redevelopment Agency of August 11 and 25, 2011.

ACTION: Council Member/Director Harlan moved, seconded by Council Member/Director Nicol, to approve the Minutes of the Regular Joint City Council/Redevelopment Agency Meetings of August 11 and 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. *[NOTE: Council Member/Director Storey abstained from Minutes of August 11, and Council Member/ Director Harlan abstained from voting on the Minutes of August 25, 2011, since they were absent.]*

C. Receive Planning Commission Action Minutes for the Regular Meeting of September 1, 2011. [740-50]

Prior to action on the Consent Calendar, Council Member Harlan commented on Item 3.C., Action Minutes for the Planning Commission, regarding Public Hearing Item D. for a proposed Planned Development at 1575 38th Avenue. She was interested in knowing what transpired at the meeting.

Community Development Director Johnson said there is not time to include comprehensive minutes in the City Council's agenda packet that goes out the day after the Planning Commission meeting; therefore, Action Minutes reflecting the specific actions are prepared after the meeting so that the information can be included in the Council's agenda packet.

Community Development Director Johnson said there were some constructive comments given to the applicant that the size, bulk and scale of the project was probably not appropriate for 38th Avenue and that a significant redesign was warranted to make the project compatible with the existing neighborhood. There was also discussion regarding the need for senior housing and critical comments regarding the proposed design. Staff is working with the applicant to design a project addressing the concerns expressed by the Planning Commissioners.

Community Development Director Johnson assured the Council that when this matter comes before the council, the complete minutes will be included in the agenda report.

3. C. CONSENT CALENDAR (Continued)

ACTION: Council Member Harlan moved, seconded by Council Member Nicol, to receive the Planning Commission Action Minutes for the Regular Meeting of September 1, 2011, as submitted. The motion carried on the following vote: AYES: Council Member Harlan, Termini, Nicol, Storey and Chairperson Norton. NOES: None. ABSENT: None. ABSTAIN: None.

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. [275-60]

Prior to action being taken on the Consent Calendar, Mayor Norton expressed concern about the rainy season coming, and the need for the building's roof to be complete. Public Works Director Jesberg said the trusses should arrive sometime next week, and the contractor is ready to install them once they arrive.

ACTION: Council Member Harlan moved, seconded by Council Member Nicol, 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 Member Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT:

4. PUBLIC HEARINGS

A. Continued Public Hearing to consider adoption of an Ordinance Repealing Capitola Municipal Code Chapter 2.18 pertaining to Mobile Home Park Rent Stabilization. [2nd Reading] Presentation: City Attorney. [750-25]

Mayor Norton announced that under Additions and Deletions to the agenda, Item 2.A.1), this public hearing was continued indefinitely by the following action:

ACTION: Council Member Termini moved, seconded by Council Member Storey, to continue Item 4.A., the Public Hearing pertaining to the second reading of the Mobile Home Park Rent Control ordinance, indefinitely. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Storey, and Mayor Norton. NOES: Council Member Nicol. ABSENT: None. ABSTAIN: None.

B. City/RDA: Continued Joint City Council/Redevelopment Agency Public Hearing to Consider adoption of an Ordinance and necessary City/Agency Resolutions determining the City will comply with the Voluntary Alternative Redevelopment Program pursuant to Part 1.9 of Division 24 of the California Health and Safety Code in order to permit the continued existence and operation of the Redevelopment Agency of the City of Capitola. Presentation: Community Development Department. [760-10/760-25/500-10/760-05 A/C: City/RDA Agency Transfer Payment Agreement/Loan and Repayment Agreement]

Community Development Director/Deputy Executive Director Johnson commented on the City of Capitola Redevelopment Agency's resolution passed at the last meeting approving and adopting the Enforceable Obligation Schedule pursuant to Part 1.8 of the Redevelopment Law. He advised that the State Department of Finance has requested additional information regarding the schedule.

Utilizing a PowerPoint Presentation, Community Development Director/Deputy Executive Director Johnson summarized the written agenda report, reviewed the recommended action for tonight, and responded to questions of Council Members/Directors.

4. B. PUBLIC HEARINGS (Continued)

Council Member/Director Harlan commented that this has been a very complicated issue to follow; however, she believes it is important to continue the Redevelopment Agency to preserve the City's housing programs.

Mayor Norton opened the public hearing at 8:55 p.m.

Bob Begun inquired about a cash flow analysis and what happens to the money in the Redevelopment Agency if the Agency does not continue. Community Development Director/Deputy Executive Director Johnson said the continuation of the Redevelopment Agency would not have a negative impact to the City, and that the State would take the Agency's money if the City does not opt to continue the Redevelopment Agency in Capitola.

Linda Flemister, resident at 750 Bay Avenue, encouraged the Council/Agency to keep up the great work of investing funds in housing programs for the City. She expressed concern about turning over the City's Redevelopment Agency money to the State.

Mayor/Chairperson Norton closed the public hearing at 9:00 p.m.

Council discussion was followed by this action:

ACTION: Council Member/Director Nicol moved, seconded by Council Member/Director Termini, to take the following actions:

1. Passed the proposed Uncodified Ordinance Determining it will comply with the Voluntary Alternative Redevelopment Program pursuant to Part 1.9 of Division 24 of the California Health and Safety Code in Order to permit the continued existence and operation of the Redevelopment Agency of the City of Capitola, as submitted; and
2. Directed staff to return with the necessary City Council and Redevelopment Agency resolutions and agreements to implement the Voluntary Alternative Redevelopment Program for approval at the second reading of the Ordinance.

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.

City Manager/Executive Director Goldstein wished to commend Community Development Director/Deputy Executive Director Johnson on his excellent work regarding this Redevelopment Agency item.

5. OTHER BUSINESS

A. Consider options to address the City's cash management needs. Staff recommendation: adopt Resolution authorizing the City Manager to execute interfund loans and a short-term commercial line of credit, as necessary. [330-05]

Utilizing a PowerPoint Presentation, City Manager Goldstein summarized the written agenda report and responded to questions of council members.

Council members expressed their individual concerns regarding the city's cash flow needs. There was a great deal of discussion regarding the proposed recommendation to initiate a short-term commercial line of credit.

Mayor Norton opened this item up to the public for comments at 9:20 p.m.

5. A. OTHER BUSINESS (Continued)

Finance Advisory Committee Chair Bob Begun addressed the council, stating that he believes the overall approach to the city's cash flow challenges is very good; however, he objects to taking money from the PCI (borrowing up to \$500,000 from the CIP Fund). He said the City has already forecast very low funding levels for the PCI in the budget, and he is concerned our pavement management program is at risk because it will cost more in the future to repair our streets if we continue to put off those projects.

Public Works Director Jesberg addressed Mr. Begun's concerns. He said to maintain PCI levels \$500,000 is necessary each year.

Mr. Begun suggested taking the money from the Internal Services Fund rather than the Capital Improvement Program (CIP).

After public comments there was additional council discussion, and City Manager Goldstein responded to additional questions from Council Members.

Considerable Council discussion was followed by this action:

ACTION: Council Member Nicol moved, seconded by Council Member Termini, to approve the staff recommendation, including adoption of the resolution to include Items 2.A. and 2.B., but deferring Item 2.C., to initiate a limited-term commercial line of credit for up to \$500,000, until the first meeting in November.

Under discussion of the motion, Mayor Norton said he would prefer making the hard decisions now to reduce staff or city services, rather than waiting until after mid-year. He would agree with acquiring a line of credit as long as the Council could monitor the expenditures, by receiving information when the line of credit is used. He said the city really needs to look hard at its expenditures.

Council Member Nicol commented that it will cost the city \$5,000 to obtain a line of credit, which the city may or may not need, and he knows the city will need that \$5,000. He would like to defer that expense at least until November.

After Council discussion, Council Member Nicol amended his motion to move the staff recommendation to adopt **Resolution No. 3885, Resolution Authorizing the City Manager to Execute Interfund Loans to the City General Fund as Necessary to Bridge City Cash flow needs through Fiscal Year 2012-12**, to include Items 2.A. to borrow up to \$500,000 from the City CIP Fund, and 2.B. to borrow up to \$465,000 from Special Revenue Funds. Council Member Termini, who seconded the motion, agreed with the amendment. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

Mayor Norton then asked if there were a motion with respect to recommendation 2.C. pertaining to the initiation of a limited-term commercial line of credit for up to \$500,000.

Council Member Storey moved, seconded by Council Member Termini, to defer recommendation "2.C., Initiate a limited-term commercial line of credit for up to \$500,000," and directed staff to report back in November. 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 (Continued)

B. Consider rescheduling the Special Joint Study Session with the Finance Advisory Committee set for September 14 to the first week in October. Staff recommendation: set a new date for the Special Joint Study Session with the Finance Advisory Committee. [330-40]

City Manager Goldstein summarized the written agenda report, saying the Finance Advisory Committee has requested the Joint Study Session be continued so that their committee could formulate recommendations to the Council prior to the study session.

Council Member Harlan suggested they meet on Wednesday, October 12. City Clerk Greeninger said the Finance Advisory Committee was looking for a day during the first week in October, and the meeting room would be available on October 5 or 6. Council Member Harlan again suggested October 12, or possibly October 17. City Clerk Greeninger said she did not have the meeting room calendar for that week, and she was not certain whether there were conflicts on those dates.

Council discussion was followed by this action:

ACTION: Council Member Harlan moved, seconded by Council Member Nicol, to reschedule the Special Joint Study Session with the Finance Advisory Committee to Wednesday, October 12, 2011, at 6:00 p.m., in the City Hall Council Chambers.

6. COUNCIL/RDA DIRECTORS/STAFF COMMUNICATIONS – None

7. ADJOURNMENT

The City Council/Redevelopment Agency Meeting was adjourned at 9:42 p.m. in memory of **Deputy City Attorney Celestial Cassman** to its next Regular Joint Meeting to be held on Thursday, September 22, 2011, at 7:00 p.m. 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



CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 22, 2011

FROM: CITY TREASURER

DATE: SEPTEMBER 8, 2011

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

Recommended Action:

By motion, that the City Council accept the August 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 AUGUST 31, 2011

The City Cash Position at August 31, 2011 totals \$3,621,800. LAIF deposits include \$2,877,300 of City and Assessment District Funds. The LAIF investment return as of August 31, 2011 was .408%.

The General Fund Balance Sheet consists of:

Total Assets	\$2,509,700 (includes Rispin receivable of \$1,350,000)
Total Liabilities	\$1,985,000
Total Fund Balance	\$ 524,600 (includes Rispin receivable of \$1,350,000)

Fund Balance

General Fund	\$ 524,600
Designated Reserves:	1,074,900
Capital Improv. Projects	980,100
Special Revenues:	1,262,600
Debt Service	(51,800)
Internal Services:	1,040,500
Total	\$ 4,830,900

FISCAL IMPACT: None.

ATTACHMENTS - 1) August 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/9-22-11/City Treasurer Report for Month Ended 8-31-11



Treasurer's Report for Month Ended August 31, 2011 (UNAUDITED)

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 1st quarter of 1977 to present.

DISCUSSION

The following information is for the month ended August 31, 2011. Such information is unaudited.

CASH BALANCE BY FUND

As of August 31, 2011, the LAIF deposits include \$2,877,300 of City and Assessment District funds. The LAIF investment return as of August 31, 2011 was .408%. The following summarizes the City's total cash balance of \$3,621,800 at August 31, 2011 amongst the funds:

		August 31, 2011
<u>General Fund</u>		292,700
<u>Special Revenues</u>	S L E S F	9,700
	SCC NARCOTICS ENFORCEMENT TEAM	(5,200)
	GAS TAX	(5,700)
	WHARF FUND	58,500
	DEVELOPMENT FEES FUND	3,400
	PEG CABLE TV ACCESS FUND	76,200
	CAPITOLA VILLAGE & WHARF BIA	27,400
	GREEN BUILDING	56,900
	PARIING RESERVE FUND	180,700
	TECHNOLOGY FEE FUND	14,000
	CDBG - GRANTS	(16,600)
	CDBG PROGRAM INCOME	(16,300)
	CDBG PROGRAM INCOME 07-08 RLF	-
	HOUSING PROGRAM LOAN FUND	1,000
	HOME GRANT FUND	5,200
	AFFORDABLE HOUSING TRUST FUND	183,200
	BEGIN GRANT FUND	60,000
	PUBLIC ART FUND	257,700
	OPEN SPACE PURCHASE	300
	GENERAL PLAN UPDATE	328,800
<u>Internal Service</u>	WORKER'S COMPENSATION	74,800
	SELF INSURANCE	126,000
	STORES	12,600
	INFORMATION TECHNOLOGY	107,200
	EQUIPMENT REPLACEMENT	105,900
	PUBLIC EMPLOYEE RETIREMENT	279,000
<u>Reserves</u>	EMERGENCY RESERVES	103,900
	CONTINGENCY RESERVES	330,000
	COMPENSATED ABSENCES	36,100
<u>Capital Projects</u>	VARIOUS CAPITAL PROJECTS	983,900
<u>Debt Service</u>	DEBT SERVICE FUND	(49,500)
TOTAL ALL FUNDS		<u><u>3,621,800</u></u>
	General Fund	292,700
	Internal Services	705,500
	Reserves	470,000
		<u><u>1,468,200</u></u>

GENERAL FUND SUMMARY BALANCE SHEET

The following is the General Fund summary balance sheet:

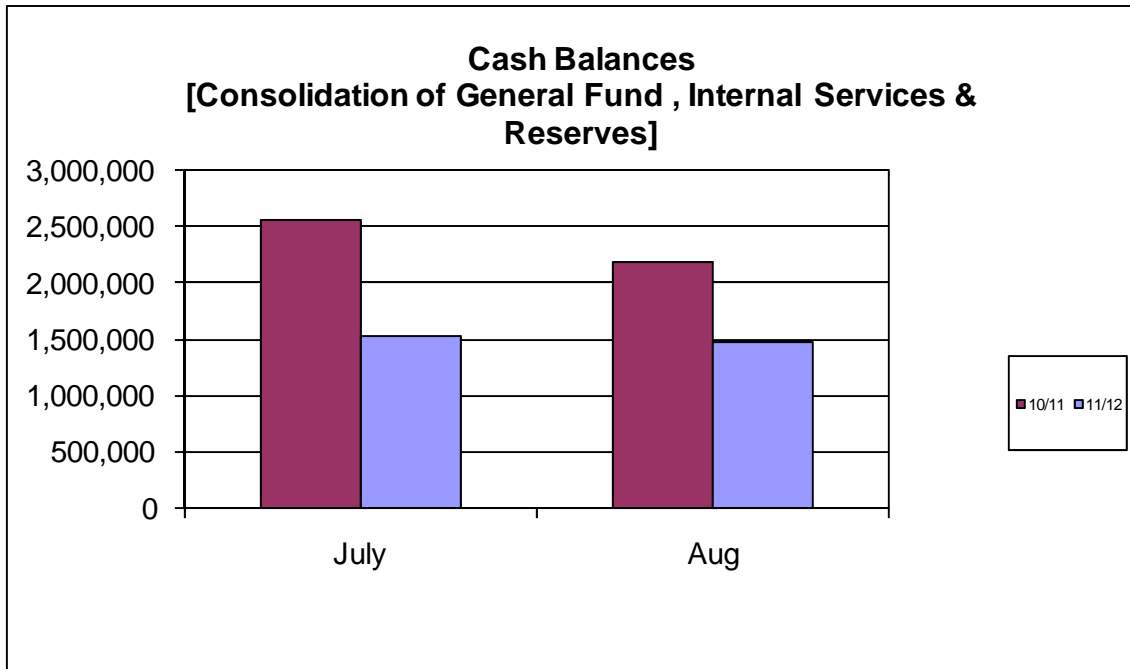
General Fund: Summary Balance Sheet	6/30/2011	Incr/Decr	8/31/2011
Cash	(240,500)	533,200	292,700
Prepaid Expenditures	3,800	(100)	3,700
Accounts Receivable	59,200	(16,400)	42,800
Accounts Receivable - Intergovernmental ¹	1,140,500	(938,000)	202,500
Accounts Receivable - RDA (Rispin)	1,350,000	-	1,350,000
Short Term Loans - RDA	-	-	-
Long Term Loans - RDA	618,000	-	618,000
TOTAL ASSETS	\$ 2,931,000	\$ (421,300)	\$ 2,509,700
Accounts Payable	261,200	(180,500)	80,700
Payroll Related Liabilities	335,800	(433,700)	(97,900)
Other Deposits and Other Liabilities	243,800	(37,200)	206,600
Deferred Revenue -- RDA	618,000	-	618,000
Deferred Revenue	368,700	(146,000)	222,700
Due to Other Funds	-	954,900	954,900
TOTAL LIABILITIES	\$ 1,827,500	\$ 157,500	\$ 1,985,000
FUND BALANCE ²			
Rispin Mansion Transaction	1,350,000	-	1,350,000
Fund Balance Reserves	15,200	-	15,200
Available Fund Balance:			
Prior Year Fund Balance	-	-	(261,300)
Current Year Operating Results	-	(579,300)	(579,300)
Net, Available Fund Balance	\$ (261,300)	\$ (579,300)	\$ (840,600)
TOTAL FUND BALANCE	\$ 1,103,500	\$ (579,300)	\$ 524,600

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

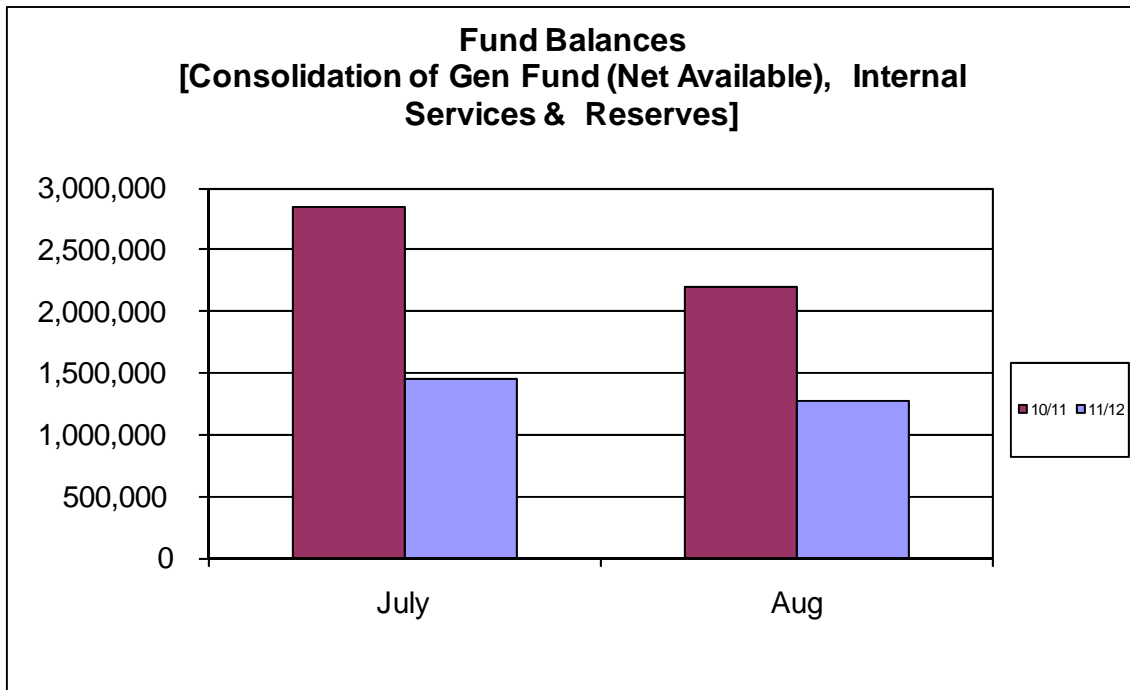
² Fund Balance is segregated for the amounts related to the Rispin Mansion Note Payable to the City and amount available.

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 10/11 and FY 11/12.



August 31, 2011 Total= \$1,468,200: Gen Fund= \$292,700, Internal Service= \$705,500, Reserves= \$470,000



August 31, 2011 Total= \$1,274,900: Gen Fund= (\$840,500), Internal Service= \$1,074,900, Reserves= \$1,040,500

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.)

	Beginning Fund Balance: 7/01/11	Incr/(Decr) July	Revenue	Expenditure	Interfund Transfers	Unaudited Fund Balance: 8/31/11
General Fund: Rispin	1,350,000	-		-	-	1,350,000
General Fund: Reserved	15,200	-		-	-	15,200
General Fund: Available	(261,200)	(250,700)	383,300	(712,000)	-	(840,500)
Designated Reserves:	-					-
Emergency Reserves @ 5%	134,700	(3,500)	0	(27,300)	-	103,900
Compensated Absences	64,700	(28,600)	0	0	-	36,100
Contingency Reserves @10%	934,900	-	0	0	-	934,900
	-					-
Capital Improv. Projects:	1,053,900	(21,300)	0	(52,800)	-	979,800
Open Space Purchase	300	-	0	0		300
Special Revenues:	-					-
Gas Tax	-	(8,100)	18,400	(8,500)	-	1,800
Law Enforcement Grants	9,900	(200)	5,300	(5,600)	-	9,500
PEG Cable TV Access	77,500	-	0	(1,700)	-	76,200
Capitola & Wharf BIA	5,500	50,500	(400)	(11,700)	-	43,800
Development Fees	2,000	-	0	0	-	2,000
Wharf Fund	46,400	13,200	7,900	(4,100)	-	63,400
Green Building	48,700	-	8,200	0	-	56,900
Parking Reserve Fund	180,700	-	0	(400)	-	180,300
Technology Fee Fund	11,300	500	2,200	0	-	14,000
CDBG-Grants (Reimburseme	(4,100)	-	0	(700)	-	(4,800)
CDBG - Program Income	(15,500)	-	0	(900)	-	(16,300)
CDBG - Prog Inc 07-08 RLF	-	-	0	0	-	-
HOME Program Re-Use	5,100	1,000	1,000	(6,100)	-	1,000
HOME Grant Fund	5,200	-	0	0	-	5,200
Affordable Housing Trust	343,100	(159,900)	0	(100)	-	183,100
Begin Grant Fund	60,000	-	0	0	-	60,000
Public Art Program	127,700	130,000	0	0	-	257,700
General Plan Maintenance	303,300	2,600	23,400	(500)	-	328,800
	-					-
Debt Service:POB	252,900	(321,900)	17,100	0	-	(51,800)
Internal Services:	-	-				-
Equipment Replacement	305,900	-	0	0	-	305,900
Information Technology	173,200	(9,700)	0	(7,700)	-	155,700
Public Employee Retirement	473,700	(165,200)	55,300	(98,100)	-	265,700
Self-Insurance Liability	277,400	(35,600)	0	(15,400)	-	226,400
Stores	14,300	(500)	0	(1,800)	-	12,000
Worker's Compensation	174,800	(100,000)	0	0	-	74,800
	-					-
	-					-
TOTAL CITY	6,171,500	(907,400)	521,700	(955,400)	-	4,831,000

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 August 31, 2011, total revenues were \$383,300 which included Charges for Services of \$141,300, which includes Parking Meter Revenue of \$87,700 (36%), Transient Occupancy Tax of \$115,200 (30%), and \$48,300 of Licenses & Permits which includes \$45,400 in building permits (11%).

General Fund Expenditures: For the month ending August 31, 2011, total expenditures were \$712,000 which includes Staffing for (2) pay periods of \$569,600 (80%), and Contract Services of \$99,300 which includes \$21,300 for Recreation Contract Instructors, (13%).

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	0.448	0.381	0.408				



Item #: **3.D.**

CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 22, 2011

FROM: DEPARTMENT OF PUBLIC WORKS
DATE: SEPTEMBER 16, 2011
SUBJECT: RISPIN PROPERTY HAZARD ABATEMENT UPDATE NO. 14

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 Hazardous Conditions 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:

Work is to begin on the roof on September 21st with completion anticipated in mid-October. Upon completion of the roof, lighting will be installed inside the mansion and fences and rails installed per plan.

FISCAL IMPACT

Contracts in the amount of \$650,000 have been issued. As of September 16, 2011, there has been \$320,806.55 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 SEPTEMBER 22, 2011

FROM: COMMUNITY DEVELOPMENT DEPARTMENT
DATE: SEPTEMBER 9, 2011
SUBJECT: APPROVE AMENDMENT TO THE COOPERATIVE AGREEMENT WITH BARRY SWENSON BUILDER REGARDING VILLAGE HOTEL PLANNING, AND ADOPT RESOLUTION AMENDING THE FY2011-12 BUDGET

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

- 1) Approve the proposed "First Amendment to the Cooperative Agreement regarding Village Hotel Planning and Parking Structure Financing Costs" between the City and Barry Swenson Builder, accepting \$30,000 in funds for the Capitola Hotel Design Alternatives Study; and
 - 2) Adopt the proposed Resolution Amending the FY2011-12 Budget to increase General Plan Maintenance Fund Revenues and Expenditures by \$30,000, as submitted.
-

BACKGROUND

On May 12, 2011 the City Council authorized the application for a \$70,000 Planning and Technical Assistance (PTA) grant from the State CDBG program for Capitola Village Hotel Design Alternatives. At that time the Council also approved a Cooperative Agreement with Barry Swenson Builder to accept \$30,000 in matching funds to augment the anticipated CDBG funds for the Village Hotel study to be completed in coordination with the General Plan Update.

The State CDBG program had anticipated making grant awards July 2011 but due to CDBG program organizational changes they have now extended that date to late September. In addition, given that the grant program was exceedingly oversubscribed, the City's chances of being awarded funds seem to be limited. The City's General Plan Update program is now in the process of preparing for the Village Area Study Plan which is the appropriate phase of the update process for the discussion of the Village Hotel Design alternatives. In order for the Village Hotel Design work contemplated in the Cooperative Agreement to be included as a part of the Village Area Plan the project needs to proceed at this point without the CDBG funds. Barry Swenson Builder has agreed to contribute \$30,000 toward this study in spite of the lack of matching CDBG funds. This will allow the work to proceed immediately. If the CDBG funds are awarded to the City at a later date staff will return to Council with additional amendments to the Cooperative Agreement.

The attached First Amendment to the Cooperative Agreement amends the original cooperative agreement signed May 23, 2011 to remove the requirement of matching CDBG funds and to modify and reduce the Scope of Services. The revised scope of services will focus entirely upon the Design Alternatives for the Village Hotel and will not include work related to the Pacific Cove parking structure.

It has been staff's experience that incorporating the consideration of the hotel project into the General Plan process will ensure compatibility with the future vision for the Capitola Village, and generate a high degree of public involvement in the planning process. As with the prior agreement, the City retains all design and project control, with Barry Swenson Builder providing input through the public process.

FISCAL IMPACT

The proposed First Amendment to the Cooperative Agreement would bring in a total of \$30,000 in funds from Barry Swenson Builder that would be expended for design work related to the Village Area Study of the General Plan Update.

ATTACHMENTS

- 1) Draft Budget Resolution
- 2) Draft First Amendment to the Cooperative Agreement with Barry Swenson Builder Regarding Village Hotel Planning

Report Prepared By: David Foster

Approved by: Derek Johnson
Community Development Director

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

RESOLUTION NO. ____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
ACCEPTING \$30,000 IN FUNDS AND AMENDING THE FY2011-12 BUDGET
TO INCREASE THE GENERAL PLAN MAINTENANCE FUND REVENUES AND EXPENDITURES
BY \$30,000 FOR THE VILLAGE HOTEL PROJECT**

WHEREAS, on May 12, 2011 the City Council authorized a “Cooperative Agreement Regarding Village Hotel and Parking Structure Financing Costs” between the City and Barry Swenson Builders accepting \$30,000 in funds for the Capitola Hotel Design Alternative Study; and

WHEREAS, on September 22, 2011 the City Council authorized a “First Amendment to the Cooperative Agreement Regarding Village Hotel and Parking Structure Financing Costs” to amend the Scope of Services under the contract

NOW, THEREFORE, BE IT HEREBY RESOLVED that the City Council of the City of Capitola accepts the contribution of \$30,000 from Barry Swenson Builder in accordance with the Cooperative Agreement and First Amendment to the Cooperative Agreement.

BE IT FURTHER RESOLVED that the City Manager, as Acting Finance Director, is directed to record or have recorded the above activities and associated budget amendments into the City’s accounting records in accordance with appropriate accounting principles, including:

Increase General Plan Maintenance Fund Expenditures by \$30,000

Increase General Plan Maintenance Fund Revenues by \$30,000

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 22nd day of September, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dennis R. Norton, Mayor

ATTEST:

_____, MMC
Pamela Greeninger, City Clerk

**FIRST AMENDMENT TO THE
COOPERATIVE AGREEMENT REGARDING VILLAGE HOTEL PLANNING
& PARKING STRUCTURE FINANCING COSTS**

WHEREAS, the Cooperative Agreement Regarding Village Hotel Planning and Parking Structure Financing Costs was executed on May 23, 2011; and

WHEREAS, the City’s grant funding application to the State Community Development Block Grant Program (“CDBG”) has not been awarded to the City; and

WHEREAS, the Developer is willing to provide the matching funds in spite of the lack of CDBG funds in order to proceed with the site design work for the Village Hotel;

NOW, THEREFORE, it is mutually agreed that the Cooperative Agreement shall be modified as follows:

1. The following WHEREAS paragraphs shall be removed:

“WHEREAS, each year the City of Capitola is eligible to apply for grant funding from the State Community Development Block Grant Program (“CDBG”) Program to assist with affordable housing and economic development programs; and

WHEREAS, the City Council provided authority for City Staff to proceed with the preparation of a grant application for site design for a Village Hotel and the development of a financing plan for a village serving parking structure on August 12, 2010; and

WHEREAS, the City Council authorized the submittal of a CDBG grant application for purposes of site design and massing studies and other associated design planning related to the Village Hotel and associated parking structure financing plan; and”

2. The following WHEREAS paragraph has been modified to read as follows:

WHEREAS, in order to proceed with citizen consideration of an update to the Capitola General Plan, including the Proposed Project, at this time, the Developer is willing to provide matching funds to facilitate consideration of the Proposed Development within the General Plan process, on the terms and conditions set forth below; and

3. The following THEREFORE paragraphs have been changes to read as follows:

2. *Within 10 calendar days of City execution of this Agreement Developer shall deposit with the City the sum of \$30,000 of matching funds (the “Matching Funds”) solely to be used for tasks outlined in Exhibit B. In the event that costs to complete the tasks outlined in Exhibit B exceed the Matching Funds, the City and Developer agree to adjust the scope of work so that it can be completed with available Matching Funds. Matching Funds may be used only to pay actual direct and indirect costs and expenses incurred by City by payment to third parties in the performance of the tasks outlined in Exhibit B. City agrees that City will perform or cause to have performed only work that is, in its determination, reasonable and necessary to accomplish the tasks identified in Exhibit B.*

3. *D. The City shall commit no less than 100% of the total project budget for work related to the Proposed Development of the site.*

7. **ACCOUNTING.** *City has provide developer with periodic accountings of (1) funds withdrawn from Deposit, and (2) funds remaining on Deposit, with City. City shall provide Developer an accounting no less frequently than one per quarter. The accounting shall identify the work performed by or on City's behalf, the application of the Deposit, and shall contain sufficient specificity to indicate the nature of the work performed.*

4. The scope of services will be reduced and revised and the Scope of Services Exhibit B shall will be replaced with the following new Exhibit B:

EXHIBIT B

SCOPE OF SERVICES

1. CURRENT SCOPE OF EXISTING GENERAL PLAN UPDATE CONSULTANT CONTRACT

In December, 2010 the City of Capitola entered into a contract with Design, Community and Environment (DC&E) for the General Plan Update, Climate Action Plan, Local Coastal Plan Update, Environmental Impact Report and Zoning Code Update. This work includes a three-year timeline to be completed by December 2013. Included in this contract is the development of three Special Area Studies including the 41st Avenue/Capitola Mall, the Bay Avenue Area and the Capitola Village Area.

Capitola Village is essentially the "center" of Capitola and is frequented by both residents and visitors. It is the location of many social events (i.e., the Begonia Festival, the Arts & Wine Festival, the Twilight Concerts, the Rod & Custom Classics Car Show, etc.) DC&E's work with the Capitola Village Special Area Study will include consideration of four critical issues, namely: 1) the proposed hotel, 2) parking and circulation, 3) underdevelopment of sites and Village options, and 4) coastal erosion and sea-level rise.

Specifically related to the Hotel site development work DC&E's current contract will include:

- *Review of Program Documents*
- *Review of Regulatory Documents*
- *Hotel Parking/Parking in the Pacific Cove Structure*
- *Site Plan Level Analysis*
- *Policy Design Guidance*
- *Photo Simulations*
- *Facilitation of Capitola Village Special Study Community Workshop/Studio*

2. SCOPE OF SERVICES UNDER THIS COOPERATIVE AGREEMENT FOR THE CAPITOLA VILLAGE HOTEL PROJECT

The scope of services for the Capitola Village Hotel Project will be coordinated to fit within the planning process already included under the City's contract with DC&E. These additional services will expand on the scope of work outlined above under the existing DC&E contract and will include the following specific activities and deliverables:

Task A: Project Initiation

The selected Hotel Facilitation Team will attend a project start-up meeting with City staff and Barry Swenson Builder, (the property owner), to obtain all proposed program and background information relevant to the Hotel Project and General Plan Update.

At the same meeting, City staff will conduct a site tour to acquaint the selected consultant team with existing site conditions, critical adjacencies, views, access, parking, and other opportunities and/or constraints that affect the site design of the future Hotel.

The Facilitators will next attend a work session with key (3) Village stakeholders to discuss the prevailing issues of hotel planning, Village parking, and coastal hazards, (including sea level rise), that impact the design.

Task B: Community Outreach

After becoming familiar with the site, hotel objectives, and Village planning issues; the Hotel Facilitation Team will work with City staff and the owner to review the current Hotel-Spa program, refine urban design / massing studies, and prepare presentation materials and graphic exhibits. A strategic Hotel project outreach effort will then be conducted, including key presentations to local business and residential groups. All feedback from public outreach and/or presentations shall be summarized in memo reports to City staff.

Task C: Community Weekend Workshop

The Facilitation Team will next promote, organize, and lead a Community Weekend Workshop and Hotel Visioning Session. The workshop is envisioned to begin with presentations given by the Architect of the Site Context, its History, and Hotel programmatic and spatial requirements. Following is suggested content:

1) Site Conditions and History

- *A clear representation of the site location, area, and context.*
- *A compelling narrative of the history of the Village, the site, and the former Grand Capitola Hotel.*
- *Diagrams / illustrations that identify current site conditions, opportunities, and constraints, (including transportation, parking, access, service, and coastal hazards)*
- *A concise photographic representation of at least 5 key vantage points to be considered in the design. (Required vantage points to be provided by City.)*

2) Components for a new, economically feasible hotel:

- *The hotel program, including the relative size of programmatic features.*
- *Illustrations that convey possible hotel massing / a desired building envelope, its relationship to the Village, the Bay, and other critical adjacencies.*
- *The practical requirements for operating a hotel and spa.*

Following the presentations, Workshop Facilitators will lead the public through a visioning process for the new hotel. It is desired that this be achieved through small groups of 5/6 participants each. The Architect has the option of utilizing physical models and hotel building blocks for the visioning process, (model components made in advance of workshop), digital model creation at each table, or additional massing diagrams and illustrations to convey similar concepts.

The hotel visioning process will be followed by consensus-building exercises and/or voting to identify desired architectural massing and basic characteristics of the new hotel.

A summary of consensus items will be presented to the public prior to the end of the workshop. This summary and other relevant feedback shall be reported to the City and the GPAC.

Task D: GPAC Meeting and Submission of all material.

Upon completion of the weekend workshop, the Facilitation team shall plan to attend a meeting with the City's General Plan Advisory Committee to discuss the hotel project, workshop results, public feedback in general and to present final recommendations for inclusion in the General Plan including any required regulatory document changes.. The team shall also organize all drawings, presentation materials, photographs, and studies used throughout their involvement for submission to the City on a compact disc. Any / all materials may be utilized for the purposes of representing the Hotel Project and Community desires for efforts associated with the General Plan update, Local Coastal Plan, EIR, and other initiatives.

3. SCHEDULE AND MEETINGS

Tentative Schedule

<i>Task A:</i>	<i>Sept. 2011</i>	<i>Project Orientation and Site Visit</i>
<i>Task B:</i>	<i>Oct. 2011</i>	<i>Public Outreach Support</i>
<i>Task C:</i>	<i>November 2011</i>	<i>Community Weekend Workshop</i>
<i>Task D:</i>	<i>December 2011</i>	<i>GPAC Meeting and Submission of Files</i>

IN WITNESS WHEREOF, City and Developer have executed this First Amendment to the Cooperative Agreement by the respective authorized officers as set forth below to be effective as of the date executed by the City.

“CITY”:
CITY OF CAPITOLA, a municipal corporation

By: _____

Name: Jamie Goldstein

Its: City Manager

Date: _____

“DEVELOPER”:
Green Valley Corporation
a California corporation
doing business as Barry Swenson Builder,

By: _____

Name: _____

Its: _____

Date: _____



Item #: **3.F.**

CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 22, 2011

FROM: CITY MANAGER'S DEPARTMENT
DATE: SEPTEMBER 14, 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. Farmers Insurance Exchange, subrogee of Babette Beyer and Rainbow City Limits: \$6,409.89
2. Mid-Century Insurance Company, subrogee of Panache Bath & Body Shop: \$12,682.23
3. California Capital Insurance Company, subrogee of Stacey Basile, et al.: \$250,000.00
4. Capitola Associates, LLC: \$541,724.72

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 SEPTEMBER 22, 2011

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: SEPTEMBER 14, 2011

SUBJECT: ADOPTION OF AN UNCODIFIED ORDINANCE [2ND READING] AND THE NECESSARY CITY COUNCIL AND REDEVELOPMENT AGENCY RESOLUTIONS APPROVING THE VARIOUS AGREEMENTS REQUIRED TO IMPLEMENT THE STATE'S VOLUNTARY ALTERNATIVE REDEVELOPMENT PROGRAM ESTABLISHED AS PART OF STATE'S FY 2011-2012 BUDGET

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

CITY Actions:

1. Adopt the proposed Uncodified Ordinance of the City Council Determining it will comply with the Voluntary Alternative Redevelopment Program pursuant to Part 1.9 of Division 24 of the California Health and Safety Code in Order to permit the continued existence and operation of the Redevelopment Agency of the City of Capitola [2nd Reading]; and
2. Authorize the City Manager to notify the Department of Finance, State Controller's Office and the Office of the County Auditor-Controller of the City's participation in the Voluntary Alternative Redevelopment Program; and
3. Adopt the proposed City Council Resolution Approving and Authorizing the City Manager to Execute an Agency Transfer Payment Agreement with the Redevelopment Agency; and
4. Adopt the proposed City Council Resolution Approving and Authorizing the City Manager to execute a Loan and Repayment Agreement with the Redevelopment Agency of the City of Capitola to ensure that FY2011-2012 Agency housing programs are fully funded, as submitted.

RDA Actions:

1. Adopt the proposed Agency Resolution Approving and Authorizing the Executive Director to execute the Agency Transfer Payment Agreement with the City of Capitola; and
2. Adopt the proposed Agency Resolution reducing its deposit to the Low and Moderate Income Housing Fund for 2011-2012 Fiscal Year by \$150,000 and authorizing the Executive Director to transfer \$150,000 from the Housing Trust Fund for Housing Programs for FY2011-2012 and make certain findings and determinations; and
3. Adopt the proposed Agency Resolution Approving and Authorizing the Executive Director to execute a Loan and Repayment Agreement with the City of Capitola to ensure that FY2011-2012 Agency housing programs are fully funded.

BACKGROUND

On September 8, 2011, the City Council/Redevelopment Agency Directors received a report from the Community Development Department regarding the proposed ordinance, which will allow the City to continue its Redevelopment Agency by implementing the State's Voluntary Alternative Redevelopment Program. Comments were received from the public and the City Council approved a first reading of the ordinance and directed staff to return with the appropriate implementing agreements and resolutions.

DISCUSSION

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 October 22, 2011 and only then if the Supreme Court determines that ABX1-27 is constitutional. Parties are currently briefing the Court and a decision is expected prior to January 15, 2012 which is the day that the first voluntary payment is due to the state. Over 85% of RDA's in the state have indicated that they intend to make voluntary payments to the state to avoid dissolution.

The voluntary payments are an obligation of the City and not the Agency. The penalty for nonpayment is the dissolution of the Agency and the prevailing legal opinion is that voluntary payment does not become an obligation of the General Fund, and if funds are not available for payment, the Agency is simply dissolved. A Transfer Payment Agreement has been developed that obligates the Agency to make the annual remittance to the City in the amount equal to the voluntary payment required by the State and for the City to timely remit this amount to the County Auditor-Controller.

ABX1 27 provides that the agency can suspend or reduce 2011-2012 payments to the Redevelopment Housing Fund. As Attachment 9 shows, the Agency has insufficient funds to make the 2011-2012 payments unless it reduces its deposits into the Redevelopment Housing Fund. Staff proposes the Agency reduce payments to the Housing Fund in 2011-2012 and simultaneously offset this reduction with funding from the City's Housing Trust Fund. This would result in no reduction in the funding for housing programs for this and future years, but would provide the Agency the fund balance to maintain a positive fund balance and meet future debt obligation payments due in FY2013-14 and 2020-21. The proposed Resolution makes the necessary findings to reduce the 2011-2012 contribution to the LMHF. Agency and City Resolutions authorize and approve a loan from the Housing Trust Fund to maintain housing assistance program levels approved in the 2011-2012 budget.

Lastly, the final recommendation is to authorize the City Manager to notify State and County officials that the City has opted into the Voluntary Program contingent upon the Supreme Courts lifting of the Stay and Court's determination that it is constitutional.

FISCAL IMPACT

The Agency provides funding for critical City infrastructure and programs that eliminate blight and preserve affordable housing; including the Clares Street improvements and Rispin Project both address blight. Absent the Agency's commitment of \$665,000 in funding for 2010-11, these projects would not be completed. Moreover, the Agency's annual funding and commitment to housing programs helps preserve and develop lower income housing throughout the City, helping the City meet its RHNA obligation.

Staff has prepared a preliminary estimate of the impacts associated with making the Voluntary Program payments. The payment for 2011-2012 is currently estimated to be \$798,547. Current calculations indicate the Agency has sufficient funds to enter into the Voluntary Program. If annual Voluntary Program payments remain at forecasted amounts, it is estimated the Agency could meet its current level of pass throughs, debt obligations, library trust fund payments, affordable housing programs and minimal operational expenditures.

The Agency's two debt obligations to the City provide interest payments of \$152,500 per fiscal year to the General Fund. Additionally, the City receives approximately \$275,000 per fiscal year in funding to administer the Agency and manage affordable housing programs and projects. Should the Agency elect to dissolve and the Cooperation Agreements are determined to be invalid, General Fund revenues would be reduced by \$427,500/year and no further payments would be made on the entire outstanding \$1.9 million dollars in loans due to the City. By electing to participate in the Voluntary Program, the City would receive the annual loan interest payments plus partial principal payments and fund library trust fund and affordable housing programs. The attached cash flow projected through the projected end date of the Agency is included as Attachment 9.

ATTACHMENTS

1. Draft Ordinance
2. City Resolution authorizing Agency Transfer Payment Agreement
3. City Resolution authorizing a Loan and Repayment Agreement
4. Agency Resolution authorizing Agency Transfer Payment Agreement
5. Agency Resolution reducing its FY2011-2012 deposit to the Low and Moderate Income Housing Fund
6. Agency Resolution authorizing a Loan and Repayment Agreement
7. Loan and Repayment Agreement
8. Agency Transfer Payment Agreement
9. Cash Flow Chart
10. Notification Letter regarding Capitola's Participation in the Voluntary Program

Report Prepared By: Derek Johnson, Community Development Director
RDA Deputy Executive Director

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

ORDINANCE NO. _____

**AN UNCODIFIED ORDINANCE
OF THE CITY COUNCIL OF THE CITY OF CAPITOLA, CALIFORNIA,
DETERMINING IT WILL COMPLY WITH THE VOLUNTARY ALTERNATIVE
REDEVELOPMENT PROGRAM PURSUANT TO PART 1.9 OF DIVISION 24
OF THE CALIFORNIA HEALTH AND SAFETY CODE IN ORDER TO PERMIT
THE CONTINUED EXISTENCE AND OPERATION OF THE
REDEVELOPMENT AGENCY OF THE CITY OF CAPITOLA**

WHEREAS, the City Council of the City of Capitola (“City”) approved and adopted the Redevelopment Plan on June 24, 1982 Redevelopment Project (“Redevelopment Plan”) covering certain properties within the City (the “Project Area”); and

WHEREAS, the City adopted amendments to the Redevelopment Plan for the Capitola Redevelopment Project Area on February 14, 1985, January 1, 1995 and July 22, 2004; and

WHEREAS, the Redevelopment Agency of the City of Capitola (“Agency”) is engaged in activities to execute and implement the Redevelopment Plan pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code § 33000, et seq.) (“CRL”); and

WHEREAS, since adoption of the Redevelopment Plan, the Agency has undertaken redevelopment projects in the Project Area to eliminate blight, to improve public facilities and infrastructure, to renovate and construct affordable housing, and to enter into partnerships with the private sector to create jobs and expand the local economy; and

WHEREAS, over the next few years, the Agency will implement a variety of redevelopment projects and programs to continue to eliminate and prevent blight, improve transportation safety and alleviate traffic congestion, stimulate and expand the Project Area’s economic growth, create and develop local job opportunities and alleviate deficiencies in public infrastructure, implement housing programs to preserve affordable housing; and

WHEREAS, as part of the 2011-12 State budget bill, the California Legislature has recently enacted and the Governor has signed, companion bills AB 1X 26 and AB 1X 27, requiring that each redevelopment agency be dissolved unless the community that created the agency enacts an ordinance committing the community to make certain payments; and

WHEREAS, specifically, AB 1X 26 prohibits agencies from taking numerous actions, effective immediately and purportedly retroactively, and additionally provides that agencies are deemed to be dissolved as of October 1, 2011; and

WHEREAS, AB 1X 27 provides that a agency may participate in an “Voluntary Alternative Redevelopment Program,” in order to enable a redevelopment agency within that community to remain in existence and carry out the provisions of the CRL, by enacting an ordinance agreeing to comply with Part 1.9 of Division 24 of the Health and Safety Code; and

WHEREAS, under the threat of dissolution pursuant to AB 1X 26, and upon the contingencies and reservations set forth herein, through the adoption and enactment of this Ordinance, it is the intent of the City Council to enact the ordinance described in Section 34193(a) of the CRL and to participate for itself and on behalf of the Agency in the Voluntary Alternative Redevelopment Program set forth in Part 1.9 of the CRL; and

WHEREAS, pursuant to Section 34193.2(b) of the CRL, the City Council understands that participation in the Voluntary Alternative Redevelopment Program requires remittance of certain payments as set forth in AB 1X 27 and also constitutes an agreement on the part of the City, in the event the City fails to make such remittance payments, to assign its rights to any payments owed by the Agency, including, but not limited to, payments from loan agreements, to the State of California; and

WHEREAS, the City reserves the right to appeal the California Director of Finance's determination of the amount of any community remittance, as provided in Health and Safety Code Section 34194; and

WHEREAS, City understands that an action challenging the constitutionality of AB 1X 26 and AB 1X 27 has been filed on behalf of cities, counties and redevelopment agencies; and

WHEREAS, while the City currently intends to make these community remittances, they shall be made under protest and without prejudice to the City's right to recover such amounts and interest thereon, to the extent there is a final determination that AB 1X 26 and AB 1X 27 are unconstitutional; and

WHEREAS, the City reserves the right, regardless of any community remittance made pursuant to this Ordinance, to challenge the legality of AB 1X 26 and AB 1X 27; and

WHEREAS, to the extent a court of competent jurisdiction enjoins, restrains, or grants a stay on the effectiveness of the Voluntary Alternative Redevelopment Program's payment obligation of AB 1X 26 and AB 1X 27, the City shall not be obligated to make any community remittance for the duration of such injunction, restraint, or stay; and

WHEREAS, on August 11, 2011, the California Supreme Court agreed to review the California Redevelopment Association and League of California Cities' petition challenging the constitutionality of the Redevelopment Restructuring Acts and issued an order granting a partial stay on specified portions of the Redevelopment Restructuring Acts, as modified on August 17, 2011 (the "Stay"), including a stay of the provisions of the Voluntary Program Act.

WHEREAS, accordingly, the City Council intends to adopt this Ordinance understanding that it will be effective only upon the lifting of the Stay and the Court's determination that the Voluntary Program Act is constitutional.

WHEREAS, all other legal prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CAPITOLA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and incorporated herein by reference.

Section 2. Participation in the Voluntary Alternative Redevelopment Program. In accordance with Health and Safety Code Section 34193, and based on the Recitals set forth above, the City Council hereby determines that the City shall comply with the provisions of Part 1.9 of Division 24 of the Health and Safety Code, as enacted by AB 1X 27.

Section 3. Payment Under Protest. Except as set forth in Section 4, below, the City Council hereby determines that the City shall make the community remittances set forth in Health and Safety Code Section 4194 *et seq.*

Section 4. Effect of Stay or Determination of Invalidity. City shall not make any community remittance in the event a court of competent jurisdiction either grants a stay on the enforcement of AB 1X 26 and AB 1X 27 or determines that AB 1X 26 and AB 1X 27 are unconstitutional and therefore invalid, and all appeals therefrom are exhausted or unsuccessful, or time for filing an appeal therefrom has lapsed. Any community remittance shall be made under protest and without prejudice to the City's right to recover such amount and interest thereon in the event that there is a final determination that AB 1X 26 and AB 1X 27 are unconstitutional.

Section 5. Implementation. The City Council hereby authorizes and directs the City Manager to take any action and execute any documents necessary to implement this Ordinance, including but not limited to notifying the Santa Cruz County Auditor-Controller, the Controller of the State of California, and the California Department of Finance of the adoption of this Ordinance and the City's agreement to comply with the provisions of Part 1.9 of Division 24 of the Health and Safety Code, as set forth in AB 1X 27 and to appeal the California Director of Finance's determination of the amount of any community remittance.

Section 6. Additional Understandings and Intent. It is the understanding and intent of the City Council that the City will enter into an agreement with the Agency as authorized pursuant to Section 34194.2, whereby the Agency will transfer annual portions of its tax increment to the City in amounts not to exceed the annual community remittance payments to enable the City, directly or indirectly, to make the annual remittance payments. The City Council does not intend, by enactment of this Ordinance, to pledge any of its general fund revenues or assets to make the remittance payments.

Section 7. CEQA. The City Council finds, under Title 14 of the California Code of Regulations, Section 15378(b)(4), that this Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") in that it is not a "project," but instead consists of the creation and continuation of a governmental funding mechanism for potential future projects and programs, and does not commit funds to any specific project or program. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Santa Cruz in accordance with CEQA Guidelines.

Section 8. Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings are based are located at the City Clerk's office located at 420 Capitola Avenue, Capitola, CA 95010. The custodian for these records is the City Clerk's Office.

Section 9. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof.

Section 10. Certification: Publication. The City Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published once within 15 days of adoption in a newspaper of general circulation printed and published within the City Capitola, and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk in accordance with Government Code § 36933.

Section 11. Effective Date. This Ordinance is deemed enacted as of September 22, 2011, for purposes of Section 34193(a) of the Redevelopment Law, and shall become effective thirty (30) days from its adoption, conditioned upon the lifting of the Stay and the Court's determination that the Voluntary Program Act is constitutional.

This ordinance was introduced on the 8th day of September, 2011, and was passed and adopted by the City Council of the City of Capitola on the 22nd day of September, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Dennis R. Norton, Mayor

ATTEST:

_____, MMC
Pamela Greeninger, City Clerk

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
APPROVING AND AUTHORIZING THE EXECUTION OF THE AGENCY
TRANSFER PAYMENT AGREEMENT WITH THE REDEVELOPMENT
AGENCY OF THE CITY OF CAPITOLA PURSUANT TO PART 1.9 OF THE
REDEVELOPMENT LAW**

WHEREAS, pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 *et seq.*; the "Redevelopment Law"), the City Council (the "City Council") of the City of Capitola (the "City") adopted in accordance with the Redevelopment Law, Ordinance No. 533 on June 24, 1982 adopting the Redevelopment Plan For the Capitola Redevelopment Project (the "Redevelopment Plan"); and

WHEREAS, the Redevelopment Agency of the City of Capitola (the "Agency") is responsible for implementing the Redevelopment Plan pursuant to the Redevelopment Law; and

WHEREAS, as part of the 2011-12 State budget bill, ABX1 26 (the "Dissolution Act") and ABX1 27 (the "Voluntary Program Act"; collectively, the "Redevelopment Restructuring Acts") have been enacted to significantly modify the Redevelopment Law generally as follows:

- the Dissolution Act immediately suspends all new redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies effective October 1, 2011; and
- the Voluntary Program Act, through the addition of Part 1.9 to the Redevelopment Law ("Part 1.9"), establishes a voluntary alternative redevelopment program whereby the Agency is authorized to continue to exist upon the enactment of an ordinance by the City to comply with Part 1.9, including payment of an annual remittance to the County Auditor-Controller ("Opt-In Ordinance"); and

WHEREAS, on August 11, 2011, the California Supreme Court (the "Court") agreed to review the California Redevelopment Association and League of California Cities' petition challenging the constitutionality of the Redevelopment Restructuring Acts and issued an order granting a partial stay on specified portions of the Redevelopment Restructuring Acts, as modified on August 17, 2011 (the "Stay"), including a stay of the provisions of the Voluntary Program Act; and

WHEREAS, the City has enacted the Opt-In Ordinance prior to consideration of this Resolution, conditioned upon the lifting of the Stay and the Court's determination that the Voluntary Program Act is constitutional; and

WHEREAS, Section 34194.2 of the California Redevelopment Law authorizes the Agency to enter into an agreement with the City whereby the Agency agrees to transfer a

portion of its tax increment to the City, in an amount equal to the annual remittance required under Chapter 3 of Part 1.9 to the County Auditor-Controller; and

WHEREAS, for reasons further set forth in the staff report accompanying this Resolution (the "Staff Report"), the City and the Agency desire to enter into an agreement, whereby the Agency will transfer to the City sufficient funds to make the annual remittance required under Chapter 3 of Part 1.9, and the City will make the annual remittances to the County Auditor-Controller in satisfaction of the requirements under Chapter 3 of Part 1.9 (the "Agency Transfer Payment Agreement"); and

WHEREAS, as fully set forth in the Agency Transfer Payment Agreement, the Agency Transfer Payment Agreement will be immediately binding upon the parties, but the operation of its terms will be conditioned upon the lifting of the Stay and the Court's determination that the Voluntary Program Act is constitutional; and

WHEREAS, under Title 14 of the California Code of Regulations, Section 15378(b)(4) the approval of the Agency Transfer Payment Agreement is exempt from the requirements of the California Environmental Quality Act ("CEQA"), in that it is not a project, but instead consists of the creation and continuation of a governmental funding mechanism, and does not commit funds to any specific project or program; and

WHEREAS, the City Council has reviewed and duly considered the Staff Report, documents and other written evidence presented at the meeting.

NOW, THEREFORE, BE IT RESOLVED, that the City Council finds that the above Recitals are true and correct and have served, together with the supporting documents, as the basis for the findings and approvals set forth below.

BE IT FURTHER RESOLVED, that the City Council finds, under Title 14 of the California Code of Regulations, Section 15378(b)(4), that this Resolution is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project, but instead consists of the creation and continuation of a governmental funding mechanism, and does not commit funds to any specific project or program. The City Council therefore directs that a Notice of Exemption be filed with the County Clerk of the County of Santa Cruz in accordance with the CEQA guidelines.

BE IT FURTHER RESOLVED, that the City Council hereby approves the Agency Transfer Payment Agreement and authorizes the City Manager or the City Manager's designee to execute on behalf of the Agency the Agency Transfer Payment Agreement, substantially in the form on file with the City Clerk and the Agency Secretary and with such revisions thereto as may be approved by the City Attorney.

BE IT FURTHER RESOLVED, that the City Council authorizes the City Manager or the City Manager's designee to take such other actions and execute such other documents as are appropriate to effectuate the intent of this Resolution and to implement the Agency Transfer Payment Agreement on behalf of the City.

BE IT FURTHER RESOLVED, that this Resolution shall take immediate effect upon adoption.

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 22nd day of September, 2011, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Dennis R. Norton, Mayor

ATTEST:

_____, MMC
Pamela Greeninger, City Clerk

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
APPROVING AND AUTHORIZING THE EXECUTION OF THE LOAN AND
REPAYMENT AGREEMENT WITH THE REDEVELOPMENT AGENCY OF THE
CITY OF CAPITOLA**

WHEREAS, the Community Redevelopment Law (Health & Safety Code Section 33000, et seq.; "Redevelopment Law") requires the Redevelopment Agency of the City of Capitola (the "Agency") to deposit a specified percentage of the taxes allocated to the Agency pursuant to Section 33670 of the Redevelopment Law ("Tax Increment") into its Low and Moderate Income Housing Fund ("Housing Fund") for use to increase, improve and preserve the community's supply of low and moderate income housing; and

WHEREAS, AB x1 27, through the addition of Part 1.9 to the Redevelopment Law ("Part 1.9"), established a voluntary alternative redevelopment program whereby the Agency is authorized to continue to exist upon the enactment of an ordinance by City of Capitola (the "City") to comply with Part 1.9, including payment of an annual remittance to the County Auditor-Controller ("Opt-In Ordinance"); and

WHEREAS, the City has enacted the Opt-In Ordinance on September 22, 2011; and

WHEREAS, Part 1.9 authorizes the Agency to enter into an agreement with the City whereby the Agency agrees to transfer a portion of its Tax Increment to the City in an amount not to exceed the amount of the City's annual remittance to the County Auditor-Controller ("Agency Transfer Payment Agreement"); and

WHEREAS, the Agency and the City entered into the Agency Transfer Payment Agreement on September 22, 2011; and

WHEREAS, Section 34194.3 of the Redevelopment Law exempts the Agency from making the full amount of the required deposit into the Housing Fund for the 2011-12 fiscal year, if the City complies with the provisions of Part 1.9, and if the Agency finds that there are insufficient other moneys to meet its debt and other obligations, current priority needs, or its obligations under the Agency Transfer Payment Agreement; and

WHEREAS, the staff report presented to the City Council and Agency Board on August 11 and September 22, 2011, demonstrates that there are insufficient other moneys to meet the Agency's debt and other obligations, current priority needs and its obligations under the Agency Transfer Payment Agreement without reducing its Housing Fund deposit by One Hundred Fifty Thousand Dollars (\$150,000); and

WHEREAS, to ensure that the Housing Fund is able to meet its existing commitments for provision of affordable housing, the City is willing to loan the Housing Fund of the Agency the sum of One Hundred Fifty Thousand Dollars (\$150,000) from the City's Housing Trust Fund (the "City Housing Loan"); and

WHEREAS, the City and Agency desire to enter into a Loan and Repayment Agreement to memorialize the Agency's obligation to repay the City Housing Loan to the City; and

WHEREAS, under Title 14 of the California Code of Regulations, Section 15378(b)(4) the approval of the Loan and Repayment Agreement is exempt from the requirements of the California Environmental Quality Act ("CEQA"), in that it is not a project, but instead consists of the provision of financing for commitments already entered into for use of the Housing Fund; and

WHEREAS, the City Council has reviewed and duly considered the Staff Report, documents and other written evidence presented at the meeting.

NOW, THEREFORE, BE IT RESOLVED, that the City Council finds that the above Recitals are true and correct and have served, together with the supporting documents, as the basis for the findings and approvals set forth below.

BE IT FURTHER RESOLVED, that the City Council finds, under Title 14 of the California Code of Regulations, Section 15378(b)(4), that the Loan and Repayment Agreement is exempt from the requirements of the California Environmental Quality Act ("CEQA"), in that it is not a project, but instead consists of the provision of financing for commitments already entered into for use of the Housing Fund. The City Council therefore directs that a Notice of Exemption be filed with the County Clerk of the County of Santa Cruz in accordance with the CEQA guidelines.

BE IT FURTHER RESOLVED, that the City Council hereby approves the Loan and Repayment Agreement and authorizes the City Manager or the City Manager's designee to execute on behalf of the City the Loan and Repayment Agreement, substantially in the form on file with the City Clerk and Agency Secretary and with such revisions thereto as may be approved by the City Attorney.

BE IT FURTHER RESOLVED, that the City Council authorizes the City Manager or the City Manager's designee to take such other actions and execute such other documents as are appropriate to effectuate the intent of this Resolution and to implement the Loan and Repayment Agreement on behalf of the City.

BE IT FURTHER RESOLVED, that this Resolution shall take immediate effect upon adoption.

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 22nd day of September, 2011, by the following vote:

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

Dennis R. Norton, Mayor

ATTEST:

_____, MMC
Pamela Greeninger, City Clerk

AGENCY RESOLUTION NO. 2011-___

**RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF CAPITOLA
APPROVING AND AUTHORIZING THE EXECUTION OF THE AGENCY
TRANSFER PAYMENT AGREEMENT WITH THE CITY OF CAPITOLA
PURSUANT TO PART 1.9 OF THE REDEVELOPMENT LAW**

WHEREAS, pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.; the "Redevelopment Law"), the City Council (the "City Council") of the City of Capitola (the "City") adopted in accordance with the Redevelopment Law, Ordinance No. 522 on June 24, 1982 adopting the Redevelopment Plan For the Capitola Redevelopment Project (the "Redevelopment Plan"); and

WHEREAS, the Redevelopment Agency of the City of Capitola (the "Agency") is responsible for implementing the Redevelopment Plan pursuant to the Redevelopment Law; and

WHEREAS, as part of the 2011-12 State budget bill, ABX1 26 (the "Dissolution Act") and ABX1 27 (the "Voluntary Program Act"; collectively, the "Redevelopment Restructuring Acts") have been enacted to significantly modify the Redevelopment Law generally as follows:

- the Dissolution Act immediately suspends all new redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies effective October 1, 2011; and
- the Voluntary Program Act, through the addition of Part 1.9 to the Redevelopment Law ("Part 1.9"), establishes a voluntary alternative redevelopment program whereby the Agency is authorized to continue to exist upon the enactment of an ordinance by the City to comply with Voluntary Program Act, including payment of an annual remittance to the County Auditor-Controller ("Opt-In Ordinance"); and

WHEREAS, on August 11, 2011, the California Supreme Court (the "Court") agreed to review the California Redevelopment Association and League of California Cities' petition challenging the constitutionality of the Redevelopment Restructuring Acts and issued an order granting a partial stay on specified portions of the Redevelopment Restructuring Acts, as modified on August 17, 2011 (the "Stay"), including a stay of the provisions of the Voluntary Program Act; and

WHEREAS, the City has enacted the Opt-In Ordinance prior to consideration of this Resolution, conditioned upon the lifting of the Stay and the Court's determination that the Voluntary Program Act is constitutional; and

WHEREAS, Section 34194.2 of the California Redevelopment Law authorizes the Agency to enter into an agreement with the City whereby the Agency agrees to transfer a portion of its tax increment to the City, in an amount equal to the annual remittance required under Chapter 3 of Part 1.9 to the County Auditor-Controller; and

WHEREAS, for reasons further set forth in the staff report accompanying this Resolution (the "Staff Report"), the City and the Agency desire to enter into an agreement, whereby the Agency will transfer to the City sufficient funds to make the annual remittance required under Chapter 3 of Part 1.9, and the City will make the annual remittances to the County Auditor-Controller in satisfaction of the requirements under Chapter 3 of Part 1.9 (the "Agency Transfer Payment Agreement"); and

WHEREAS, as fully set forth in the Agency Transfer Payment Agreement, the Agency Transfer Payment Agreement will be immediately binding upon the parties, but the operation of its terms will be conditioned upon the lifting of the Stay and the Court's determination that the Voluntary Program Act is constitutional; and

WHEREAS, under Title 14 of the California Code of Regulations, Section 15378(b)(4) the approval of the Agency Transfer Payment Agreement is exempt from the requirements of the California Environmental Quality Act ("CEQA"), in that it is not a project, but instead consists of the creation and continuation of a governmental funding mechanism, and does not commit funds to any specific project or program; and

WHEREAS, the Agency Board has reviewed and duly considered the Staff Report, documents and other written evidence presented at the meeting.

NOW, THEREFORE, BE IT RESOLVED, that the Agency Board finds that the above Recitals are true and correct and have served, together with the supporting documents, as the basis for the findings and approvals set forth below.

BE IT FURTHER RESOLVED, that the Agency Board finds, under Title 14 of the California Code of Regulations, Section 15378(b)(4), that this Resolution is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project, but instead consists of the creation and continuation of a governmental funding mechanism, and does not commit funds to any specific project or program. The Agency Board therefore directs that a Notice of Exemption be filed with the County Clerk of the County of Santa Cruz in accordance with the CEQA guidelines.

BE IT FURTHER RESOLVED, that the Agency Board hereby approves the Agency Transfer Payment Agreement and authorizes the Agency Executive Director or the Executive Director's designee to execute on behalf of the Agency the Agency Transfer Payment Agreement, substantially in the form on file with the City Clerk and the Agency Secretary and with such revisions thereto as may be approved by the Agency Counsel.

BE IT FURTHER RESOLVED, that the Agency Board authorizes the Agency's Executive Director or the Executive Director's designee to take such other actions and execute such other documents as are appropriate to effectuate the intent of this Resolution and to implement the Agency Transfer Payment Agreement on behalf of the Agency.

BE IT FURTHER RESOLVED, that this Resolution shall take immediate effect upon adoption.

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the Board of Directors of the Redevelopment Agency of the City of Capitola at its regular meeting held on the 22nd day of September, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dennis R. Norton, Chairperson

ATTEST:

Pamela Greeninger, Secretary

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DRAFT

AGENCY RESOLUTION NO. _____

**RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF CAPITOLA
REDUCING ITS DEPOSIT TO THE LOW AND MODERATE INCOME
HOUSING FUND FOR THE 2011-12 FISCAL YEAR AND
MAKING CERTAIN FINDINGS AND DETERMINATIONS**

WHEREAS, the Community Redevelopment Law (Health & Safety Code Section 33000, et seq.; "Redevelopment Law") requires the Redevelopment Agency of the City of Capitola ("Agency") to deposit a specified percentage of the taxes allocated to the Agency pursuant to Section 33670 of the Redevelopment Law ("Tax Increment") into its Low and Moderate Income Housing Fund ("Housing Fund") for use to increase, improve and preserve the community's supply of low and moderate income housing; and

WHEREAS, AB x1 27, through the addition of Part 1.9 to the Redevelopment Law ("Part 1.9"), establishes a voluntary alternative redevelopment program whereby the Agency is authorized to continue to exist upon the enactment of an ordinance by the City of Capitola ("City") to comply with Part 1.9, including payment of an annual remittance to the County Auditor-Controller ("Opt-In Ordinance"); and

WHEREAS, the City has enacted the Opt-In Ordinance on September 22, 2011; and

WHEREAS, Part 1.9 authorizes the Agency to enter into an agreement with the City whereby the Agency agrees to transfer a portion of its Tax Increment to the City in an amount not to exceed the amount of the City's annual remittance to the County Auditor-Controller ("Agency Transfer Payment Agreement"); and

WHEREAS, the Agency and the City entered into the Agency Transfer Payment Agreement on September 22, 2011; and

WHEREAS, Section 34194.3 of the Redevelopment Law exempts the Agency from making the full amount of the required deposit into the Housing Fund for the 2011-12 fiscal year, if the City complies with the provisions of Part 1.9, and if the Agency finds that there are insufficient other moneys to meet its debt and other obligations, current priority needs, or its obligations under the Agency Transfer Payment Agreement; and

WHEREAS, pursuant to Part 1.9, the State Director of Finance has notified the City that the City's remittance amount for the 2011-12 fiscal year is seven hundred and ninety eight thousand five hundred and forty seven dollars (\$798,547) ("Remittance Amount"), one-half of which is due on January 15, 2012 and one-half of which is due on May 15, 2012; and

WHEREAS the Agency has agreed to provide the City funds in an amount not to exceed the Remittance Amount pursuant to the Agency Transfer Payment Agreement; and

WHEREAS, the staff report presented with this Resolution ("Staff Report") sets forth the Agency's available fund balances; the anticipated available 2011-12 Tax Increment to the Agency; and the Agency's debt and other obligations, its current priority program needs, and its obligations under the Agency Transfer Payment Agreement to be paid from such fund balances and 2011-12 Tax Increment,

demonstrating that there are insufficient other moneys to meet the Agency's debt and other obligations, current priority needs and its obligations under the Agency Transfer Payment Agreement without reducing its Housing Fund deposit by one hundred and fifty thousand dollars (\$150,000) ("Housing Fund Reduction Amount"); and

WHEREAS, the Agency has reviewed and duly considered the Staff Report, documents, and other written evidence presented at the meeting.

NOW, THEREFORE, BE IT RESOLVED, that the Agency Board finds that the above Recitals are true and correct and have served, together with the supporting documents, as the basis for the findings and approvals set forth below.

BE IT FURTHER RESOLVED, based upon substantial evidence, the Agency hereby finds that there are insufficient other moneys to meet the Agency's debt and other obligations, current priority needs, and its obligations under the Agency Transfer Payment Agreement without reducing its Housing Fund deposit by the Housing Fund Reduction Amount.

BE IT FURTHER RESOLVED, the Agency hereby finds and determines that it is necessary to reduce its Housing Fund deposit by the Housing Fund Reduction Amount for the 2011-12 fiscal year to meet its debt and other obligations, its current priority program needs, and its obligations under the Agency Transfer Payment Agreement.

BE IT FURTHER RESOLVED, the Agency hereby authorizes the Agency Executive Director, or designee, to take such actions as are necessary and appropriate to carry out and implement the reduction of the Agency Housing Fund deposit by the Housing Fund Reduction Amount for the 2011-12 fiscal year.

BE IT FURTHER RESOLVED, the Agency hereby amends its FY2011-2012 budget to reduce the deposit into the Housing Fund by the Housing Fund Reduction Amount.

BE IT FURTHER RESOLVED, that this Resolution shall take immediate effect upon adoption.

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the Board of Directors of the Redevelopment Agency of the City of Capitola at its regular meeting held on the 22nd day of September, 2011, by the following vote:

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

Dennis R. Norton, Chairperson

ATTEST:

Pamela Greeninger, Secretary

AGENCY RESOLUTION NO. 2011-___

**RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF CAPITOLA
APPROVING AND AUTHORIZING THE EXECUTION OF THE LOAN AND
REPAYMENT AGREEMENT WITH THE CITY OF CAPITOLA**

WHEREAS, the Community Redevelopment Law (Health & Safety Code Section 33000, et seq.; "Redevelopment Law") requires the Redevelopment Agency of the City of Capitola (the "Agency") to deposit a specified percentage of the taxes allocated to the Agency pursuant to Section 33670 of the Redevelopment Law ("Tax Increment") into its Low and Moderate Income Housing Fund ("Housing Fund") for use to increase, improve and preserve the community's supply of low and moderate income housing; and

WHEREAS, AB x1 27, through the addition of Part 1.9 to the Redevelopment Law ("Part 1.9"), established a voluntary alternative redevelopment program whereby the Agency is authorized to continue to exist upon the enactment of an ordinance by City of Capitola (the "City") to comply with Part 1.9, including payment of an annual remittance to the County Auditor-Controller ("Opt-In Ordinance"); and

WHEREAS, the City has enacted the Opt-In Ordinance on September 22, 2011; and

WHEREAS, Part 1.9 authorizes the Agency to enter into an agreement with the City whereby the Agency agrees to transfer a portion of its Tax Increment to the City in an amount not to exceed the amount of the City's annual remittance to the County Auditor-Controller ("Agency Transfer Payment Agreement"); and

WHEREAS, the Agency and the City entered into the Agency Transfer Payment Agreement on September 22, 2011; and

WHEREAS, Section 34194.3 of the Redevelopment Law exempts the Agency from making the full amount of the required deposit into the Housing Fund for the 2011-12 fiscal year, if the City complies with the provisions of Part 1.9, and if the Agency finds that there are insufficient other moneys to meet its debt and other obligations, current priority needs, or its obligations under the Agency Transfer Payment Agreement; and

WHEREAS, the staff report presented to the City Council and Agency Board on August 11, 2011 and September 22, 2011 demonstrates that there are insufficient other moneys to meet the Agency's debt and other obligations, current priority needs and its obligations under the Agency Transfer Payment Agreement without reducing its Housing Fund deposit by One Hundred Fifty Thousand Dollars (\$150,000); and

WHEREAS, to ensure that the Housing Fund is able to meet its existing commitments for provision of affordable housing, the City is willing to loan the Housing Fund of the Agency the sum of One Hundred Fifty Thousand Dollars (\$150,000) from the City's Housing Trust Fund (the "City Housing Loan"); and

WHEREAS, the City and Agency desire to enter into a Loan and Repayment Agreement to memorialize the Agency's obligation to repay the City Housing Loan to the City; and

WHEREAS, under Title 14 of the California Code of Regulations, Section 15378(b)(4) the approval of the Loan and Repayment Agreement is exempt from the requirements of the California Environmental Quality Act ("CEQA"), in that it is not a project, but instead consists of the provision of financing for commitments already entered into for use of the Housing Fund; and

WHEREAS, the Agency Board has reviewed and duly considered the Staff Report, documents and other written evidence presented at the meeting.

NOW, THEREFORE, BE IT RESOLVED, that the Agency Board finds that the above Recitals are true and correct and have served, together with the supporting documents, as the basis for the findings and approvals set forth below.

BE IT FURTHER RESOLVED, that the Agency Board finds, under Title 14 of the California Code of Regulations, Section 15378(b)(4), that the Loan and Repayment Agreement is exempt from the requirements of the California Environmental Quality Act ("CEQA"), in that it is not a project, but instead consists of the provision of financing for commitments already entered into for use of the Housing Fund. The Agency Board therefore directs that a Notice of Exemption be filed with the County Clerk of the County of Santa Cruz in accordance with the CEQA guidelines.

BE IT FURTHER RESOLVED, that the Agency Board hereby approves the Loan and Repayment Agreement and authorizes the Agency Executive Director or the Executive Director's designee to execute on behalf of the Agency the Loan and Repayment Agreement, substantially in the form on file with the City Clerk and Agency Secretary and with such revisions thereto as may be approved by the Agency Counsel.

BE IT FURTHER RESOLVED, that the Agency Board authorizes the Agency's Executive Director or the Executive Director's designee to take such other actions and execute such other documents as are appropriate to effectuate the intent of this Resolution and to implement the Loan and Repayment Agreement on behalf of the Agency.

BE IT FURTHER RESOLVED, that this Resolution shall take immediate effect upon adoption.

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the Board of Directors of the Redevelopment Agency of the City of Capitola at its regular meeting held on the 22nd day of September, 2011, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Dennis R. Norton, Chairperson

ATTEST:

Pamela Greeninger, Secretary

ATTACHMENT 7

LOAN AND REPAYMENT AGREEMENT (Loan of City Housing Trust Funds to Redevelopment Agency)

This Loan Agreement (the "Agreement") is entered into as of September 22, 2011, (the "Effective Date"), by and between the City of Capitola (the "City") and the Redevelopment Agency of the City of Capitola (the "Agency"), on the basis of the following facts, understandings, and intentions of the parties:

RECITALS

WHEREAS, the Community Redevelopment Law (Health & Safety Code Section 33000, *et seq.*; "Redevelopment Law") requires the Agency to deposit a specified percentage of the taxes allocated to the Agency pursuant to Section 33670 of the Redevelopment Law ("Tax Increment") into its Low and Moderate Income Housing Fund ("Housing Fund") for use to increase, improve and preserve the community's supply of low and moderate income housing; and

WHEREAS, AB x1 27, through the addition of Part 1.9 to the Redevelopment Law ("Part 1.9"), established a voluntary alternative redevelopment program whereby the Agency is authorized to continue to exist upon the enactment of an ordinance by City to comply with Part 1.9, including payment of an annual remittance to the County Auditor-Controller ("Opt-In Ordinance"); and

WHEREAS, the City has enacted the Opt-In Ordinance on September 22, 2011; and

WHEREAS, Part 1.9 authorizes the Agency to enter into an agreement with the City whereby the Agency agrees to transfer a portion of its Tax Increment to the City in an amount not to exceed the amount of the City's annual remittance to the County Auditor-Controller ("Agency Transfer Payment Agreement"); and

WHEREAS, the Agency and the City entered into the Agency Transfer Payment Agreement on September 22, 2011; and

WHEREAS, Section 34194.3 of the Redevelopment Law exempts the Agency from making the full amount of the required deposit into the Housing Fund for the 2011-12 fiscal year, if the City complies with the provisions of Part 1.9, and if the Agency finds that there are insufficient other moneys to meet its debt and other obligations, current priority needs, or its obligations under the Agency Transfer Payment Agreement; and

WHEREAS, the staff report presented to the City Council and Agency Board on August 11 and September 22, 2011, demonstrated that there are insufficient other moneys to meet the Agency's debt and other obligations, current priority needs and its obligations under the Agency Transfer Payment Agreement without reducing its Housing Fund deposit by One Hundred Fifty Thousand Dollars (\$150,000); and

WHEREAS, to ensure that the Housing Fund is able to meet its existing commitments for provision of affordable housing, the City is willing to loan the Housing Fund the sum of One Hundred Fifty Thousand Dollars (\$150,000) from the City's Housing Trust Fund (the "City Housing Loan"); and

WHEREAS, this Agreement is intended to memorialize the Agency's obligation to repay the City Housing Loan to the City.

NOW, THEREFORE, in consideration of the recitals hereof and the mutual promises and covenants set forth in this Agreement, the Parties agree as follows:

ARTICLE 1
LOAN PROVISIONS

Section 1.1 Loan. The City hereby agrees to loan to the Agency, and the Agency hereby agrees to repay to the City, the sum of One Hundred Fifty Thousand Dollars (\$150,000).

Section 1.2 Interest. The City Housing Loan shall bear ½ percent simple interest.

Section 1.3 Use of City Housing Loan. The City Housing Loan shall be used to meet obligations of the Housing Fund.

Section 1.4 Repayment; Subordination; Indebtedness of the Agency.

(a) On January 1, 2016, the Agency shall make a payment of One Hundred Thousand Dollars (\$100,000) to the Housing Trust Fund and a payment of Fifty Four Thousand and Forty Dollars (\$54,040) on January 1, 2017.

(b) Each repayment or reimbursement obligation of the Agency pursuant to this Agreement shall be repayable solely from tax increment funds, if any, generated within the Project Area. It is understood that if tax increment funds from the Project Area fail to yield sufficient revenue to pay the repayment or reimbursement obligations of the Agency under this Agreement, the Agency is under no obligation to make such repayment or reimbursement to the extent tax increment funds are insufficient.

(c) The obligation of the Agency to repay the City Housing Loan from the Housing Fund shall constitute an indebtedness of the Agency incurred in carrying out this Agreement and a pledge of tax increment revenue received by the Agency from the Project Area to repay such indebtedness under the provisions of Article XVI, Section 16 of the Constitution of the State of California, the Redevelopment Law, and the Plans, or under any applicable constitutional provision, statute, or other provision of law now existing or adopted in the future.

(d) It is agreed by the parties hereto that all repayments and reimbursements to the City pursuant to this Agreement are hereby subordinated to any and all payments necessary to satisfy existing debt of the Agency and to any and all payments necessary to satisfy the Agency's obligations in connection with any existing or future bonded indebtedness or obligation which may be incurred by the Agency for the benefit of the redevelopment program or to the extent necessary for any bonded indebtedness for which the Agency has pledged as a security or source of repayment tax increment generated within the Project Area.

Section 1.5 Due in Full. Notwithstanding Section 1.4, the Agency shall repay the entire outstanding principal of the City Housing Loan to the City by January 1, 2020.

Section 1.6 Right to Prepay. The Agency shall have the right to prepay the City Housing Loan to the City at any time without premium or penalty.

ARTICLE 2 GENERAL PROVISIONS

Section 2.1 No Third Party Beneficiaries. No person or entity other than the Agency, the Agency and their permitted successors and assigns, shall have any right of action under this Agreement.

Section 2.2 State Law. This Agreement, and the rights and obligations of the parties hereto, shall be construed and enforced in accordance with the laws of the State of California.

Section 2.3 Additional Acts. The parties each agree to take such other and additional actions and execute and deliver such other and additional documents as may be reasonably requested by the other party for purposes of consummating the transaction contemplated in this Agreement.

Section 2.4 Litigation Regarding Agreement Validity. In the event litigation is initiated attacking the validity of this Agreement, each party shall in good faith defend and seek to uphold the Agreement.

Section 2.5 Validity of Agreement. If any provisions of this Agreement, or the application thereof to any person, party, transaction, or circumstance, is held invalid, the remainder of this Agreement, or the application of such provision to other persons, parties, transactions, or circumstances, shall not be affected thereby.

Section 2.6 Entire Agreement; Modification and Amendment. This Agreement contains all of the agreements and understandings of the parties pertaining to the subject matter contained herein and supersedes all prior or contemporaneous agreements, representations and understandings of the parties. This Agreement cannot be amended or modified except by written agreement of the parties.

Section 2.7 Binding Upon Successors. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the parties to this Agreement, whether by agreement or operation of law, and including, without limitation, any successor to the Agency. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor, heir, administrator, executor or assign of such party who has acquired an interest in compliance with the terms of this Agreement, or under law.

Section 2.8 Time Of The Essence. Time is of the essence in the performance of all duties and obligations under this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed as of the date set forth in the opening paragraph of this Agreement.

CITY OF CAPITOLA

Benjamin Goldstein, City Manager

ATTEST:

_____, MMC
Pamela Greeninger, City Clerk

REDEVELOPMENT AGENCY OF THE CITY OF
CAPITOLA

Benjamin Goldstein, Executive Director

ATTEST:

Pamela Greeninger, Secretary

AGENCY TRANSFER PAYMENT AGREEMENT

This Agency Transfer Payment Agreement (the "Agreement"), is entered into as of the 22nd day of September, 2011, by and between Redevelopment Agency of the City of Capitola a public body, corporate and politic (the "Agency") and the City of Capitola, a municipal corporation (the "City") with reference to the following facts, understandings and intentions of the parties:

RECITALS

A. Pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.; the "Redevelopment Law"), the City Council (the "City Council") of the City adopted Ordinance No. ____ on September 22, 2011, declaring the need for the Agency to function in the City.

B. Also in accordance with the Redevelopment Law, the City Council adopted Ordinance No. 522 on June 24, 1982 adopting the Redevelopment Plan for the Capitola Redevelopment Project (the "Redevelopment Plan"), and the Agency is responsible for implementing the Redevelopment Plan pursuant to the Redevelopment Law.

C. ABx1 26 (the "Dissolution Act") and ABx1 27 (the "Voluntary Program Act"; and together with the Dissolution Act, the "Redevelopment Restructuring Acts") have been enacted to significantly modify the Redevelopment Law generally as follows:

1. The Dissolution Act immediately suspends all new redevelopment activities and incurrence of indebtedness, and dissolves redevelopment agencies effective October 1, 2011; and

2. The Voluntary Program Act, through the addition of Part 1.9 to the Redevelopment Law (the "Alternative Voluntary Redevelopment Program"), allows a redevelopment agency to avoid dissolution under the Dissolution Act by opting into an alternative voluntary redevelopment program requiring specified annual contributions to local school and special districts.

D. Specifically, Section 34193(a) of the Redevelopment Law (as added to the Redevelopment Law by the Voluntary Program Act) authorizes the City Council to enact an ordinance to comply with Part 1.9 of the Redevelopment Law, thereby exempting the Agency from the provisions of the Dissolution Act, and enabling the Agency to continue to exist and function under the Redevelopment Law, so long as the City and the Agency comply with the Alternative Voluntary Redevelopment Program set forth in Part 1.9 of the Redevelopment Law.

E. Through the adoption and enactment of Ordinance No. ____ (the "Continuation Ordinance"), the City Council, pursuant to Section 34193(a) of the Redevelopment Law, has elected to participate for itself and on behalf of the Agency in the Alternative Voluntary Redevelopment Program set forth in Part 1.9 of the Redevelopment Law.

F. Pursuant to Sections 34193.2(b) and 34195(b) of the Redevelopment Law, the City Council understands that participation in the Alternative Voluntary Redevelopment Program requires remittance of certain payments as set forth in Chapter 3 of Part 1.9 of the Redevelopment Law, and also constitutes an agreement on the part of the City, in the event the City fails to make such remittance payments, to assign to the State of California its rights to any payments owed by the Agency, including, but not limited to, payments from loan agreements and this Agreement.

G. Pursuant to Section 34194.2 of the Redevelopment Law, the City and Agency have elected to enter into this Agreement, whereby the Agency agrees to transfer a portion of the Agency's tax increment to the City, in an amount equal to the annual remittance required under Chapter 3 of Part 1.9 of the Redevelopment Law, for purposes of financing activities within the redevelopment area that are related to accomplishing the redevelopment agency project goals.

H. Pursuant to Section 34194.1 of the Redevelopment Law, the City may use any available funds not otherwise obligated for other uses to make the remittances to the County Auditor-Controller required pursuant Chapter 3 of Part 1.9 of the Redevelopment Law.

I. The purpose of this Agreement is to provide for the transfer of tax increment and other funds from the Agency to the City in the amounts required to make each of the annual remittances mandated under Chapter 3 of Part 1.9 of the Redevelopment Law.

J. The obligations of the Agency under this Agreement constitute an indebtedness of the Agency with respect to the redevelopment project for the Plan within the meaning of Section 16 of Article XVI of the California Constitution.

K. The City Council does not intend, by execution of this Agreement, to waive any rights of appeal regarding the amount of any remittance payments established by the California Department of Finance, as provided in the Voluntary Program Act.

L. Under Title 14 of the California Code of Regulations, Section 15378(b)(4) this Agreement is exempt from the requirements of the California Environmental Quality Act ("CEQA"), in that it is not a project, but instead consists of the creation and continuation of a governmental funding mechanism for potential future projects and programs, and does not commit funds to any specific project or program. The appropriate environmental review shall be completed in accordance with CEQA prior to the commencement of any future Agency-supported project or program.

NOW, THEREFORE, in consideration of the recitals hereof and the mutual promises and covenants set forth in this Agreement, the Agency and the City agree as follows:

ARTICLE 1.
OBLIGATIONS OF THE PARTIES

1.1 General Purpose. To the extent required by law to maintain the existence and powers of the Agency under the Redevelopment Law, the City and the Agency hereby enter into this Agreement whereby the Agency agrees to transfer a portion of its tax increment to the City,

in an amount equal to the annual remittances required under Chapter 3 of Part 1.9 of the Redevelopment Law, for the purpose of financing activities within the redevelopment area that are related to accomplishing the Agency’s project goals for the Project Area.

1.2 Transfers to City. The Agency shall transfer to the City, in a timely manner, funds from sources described in Section 1.3, in an amount equal to the annual remittances required under Chapter 3 of Part 1.9 of the Redevelopment Law, as such may be adjusted (the “Agency Transfer Payments”).

1.3 Source of Agency Transfer Payments. Any combination of the following shall constitute eligible sources for the Agency Transfer Payments:

a. Any tax increment funds allocated to the Agency pursuant to Section 333670 of the Redevelopment Law net of existing debt service payments and existing third-party contractual obligations, and excluding: (1) amounts required to be allocated to the Low and Moderate Income Housing Fund, pursuant to Sections 33334.2, 33334.3, and 33334.6 of the Redevelopment Law; and (2) any funds on deposit in the Agency’s Low and Moderate Income Housing Fund;

b. Any other funds previously or subsequently made available to the City by the Agency, including any unencumbered funds previously pledged to the City by the Agency under an agreement for payment of public improvements and other redevelopment activities;

c. Notwithstanding anything to the contrary, for the 2011-2012 fiscal year alone, any portion of the amount of tax increment required to be allocated to the Low and Moderate Income Housing Fund, pursuant to Sections 33334.2, 33334.3, and 33334.6 of the Redevelopment Law for the 2011-2012 fiscal year, to the extent the Agency makes the finding that there are insufficient other funds to meet its debt and other obligations, current priority program needs, or its obligations to provide the Agency Transfer Payments under this Agreement.

1.4 Payment of Remittances by City. Subject to the receipt of sufficient Agency Transfer Payments pursuant to Section 1.2 above, the City shall remit to the County Auditor-Controller the payments required pursuant to Chapter 3 of Part 1.9 of the Redevelopment Law on or before the dates prescribed in Section 34194(d)(1). The City’s obligations to make the remittances required hereunder shall be a special limited obligation of the City payable solely from the Agency Transfer Payments provided to the City pursuant to the terms of this Agreement, and such remittances shall be made exclusively from the Agency Transfer Payments or from other funds that become available as a result of the City’s receipt of the Agency Transfer Payments. Nothing in this Agreement shall be deemed to be a pledge of the City’s general fund revenues or other assets for the purposes of funding the remittances required by Chapter 3 of Part 1.9 of the Redevelopment Law.

1.5 Subordination. The City shall consider in good faith any request by the Agency to subordinate the City’s interest herein and to allow the Agency to pledge all or any portion of the tax increment revenue on a senior pledge basis to secure payments due on future indebtedness pledged with tax increment.

ARTICLE 2.
GENERAL PROVISIONS

2.1 No Third Party Beneficiaries. No person or entity other than the Agency and the City and their permitted successors and assigns, shall have any right of action under this Agreement.

2.2 State Law. This Agreement, and the rights and obligations of the parties hereto, shall be construed and enforced in accordance with the laws of the State of California.

2.3 Additional Acts. The parties each agree to take such other and additional actions and execute and deliver such other and additional documents as may be reasonably requested by the other party for purposes of implementing the actions contemplated under this Agreement.

2.4 Litigation Regarding Agreement Validity. In the event litigation is initiated attacking the validity of this Agreement, each party shall in good faith defend and seek to uphold the Agreement.

2.5 Severability. If any provisions of this Agreement, or the application thereof to any person, party, transaction, or circumstance, is held invalid, the remainder of this Agreement, or the application of such provision to other persons, parties, transactions, or circumstances, shall not be affected thereby.

2.6 Entire Agreement; Modification and Amendment. This Agreement contains all of the agreements and understandings of the parties pertaining to the subject matter contained herein and supersedes all prior or contemporaneous agreements, representations and understandings of the parties. This Agreement cannot be amended or modified except by written agreement of the parties.

2.7 Binding Upon Successors. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the parties to this Agreement, whether by agreement or operation of law, and including, without limitation, any successor to the Agency. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor, heir, administrator, executor or assign of such party who has acquired an interest in compliance with the terms of this Agreement, or under law.

2.8 Time of the Essence. Time is of the essence in the performance of all duties and obligations under this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, this Agreement has been executed as of the date set forth in the opening paragraph of this Agreement.

REDEVELOPMENT AGENCY OF THE
CITY OF CAPITOLA

By: _____
Benjamin Goldstein
Executive Director

APPROVED AS TO FORM:

Agency Counsel

ATTEST:

Pamela Greeninger, Agency Secretary

CITY OF CAPITOLA

By: _____
Benjamin Goldstein
City Manager

APPROVED AS TO FORM:

City Attorney

ATTEST:

_____, MMC
Pamela Greeninger, City Clerk



ATTACHMENT 10

420 Capitola Avenue
Capitola, California 95010
Telephone: (831) 475-7300
FAX: (831) 479-8879
Website: www.ci.capitola.ca.us

September 23, 2011

Ana Matosantos, Director
Chris Hill
Department of Finance
915 L Street
Sacramento, CA 95814

John Chiang, Controller
Jones Kasonso
California State Controller's Office
P.O. Box 942850
Sacramento, CA 94250

Mary Jo Walker, Auditor -Controller
Office of the County Auditor-Controller
701 Ocean Street, Room 100
Santa Cruz, CA 95060

Subject: Notice of Enactment of a Continuation Ordinance by the City of Capitola pursuant to Health and Safety Code Section 34193(a) for the continuation of the Redevelopment Agency of the City of Capitola

To Whom It May Concern:

This communication serves as the formal notification that the City Council of the City of Capitola (the "City"), at a public meeting held on September 22, 2011, acting under authority of Health and Safety Code Section 34193, enacted Ordinance No. ____ (the "Continuation Ordinance"), pursuant to which the City elected to participate in the Alternative Voluntary Redevelopment Program pursuant to Part 1.9 of the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.; the "Community Redevelopment Law). As a result of the City's adoption of the Continuation Ordinance, the Redevelopment Agency of the City Capitola will be exempt from Part 1.8 or Part 1.85 of the Community Redevelopment Law and shall be allowed to continue to operate.

This notice and the enclosed copy of Ordinance No. _____, An Uncodified Urgency Ordinance of the City Council of the City of Capitola, California, determining it will comply with the Voluntary Alternative Redevelopment Program pursuant to Part 1.9 of Division 24 of the California Health and Safety Code in Order to Permit the Continued Existence and Operation of the Redevelopment Agency of the City of Capitola, are being sent to you in satisfaction of the requirement of Health and Safety Code Section 34193.1.

September 23, 2011
Page 2

If you have questions regarding this notice or its contents, please contact Derek Johnson, the city's Community Development Director, at 831-475-7300.

Sincerely yours,

CITY OF CAPITOLA

Jamie Goldstein
City Manager

Enclosure

cc: Derek Johnson



CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 22, 2011

FROM: DEPARTMENT OF PUBLIC WORKS

DATE: SEPTEMBER 19, 2011

SUBJECT: APPROVE A THREE-YEAR CONTRACT WITH ED MORRISON FOR PUBLIC WORKS INSPECTION SERVICES IN AN AMOUNT NOT TO EXCEED \$30,000 PER YEAR, EFFECTIVE JANUARY 1, 2012

Recommended Action: By motion and roll call vote, that the City Council: 1) approve a three-year contract with Ed Morrison for Public Works Inspection Services in an amount not to exceed \$30,000 per year, effective January 1, 2012, and 2) adopt the proposed Resolution Amending the FY2011-2012 General Fund Budget by transferring \$15,000 from the Public Works Department Salary and Benefits Account to the Public Works Department Contract Services Account.

BACKGROUND

The proposed contract with Mr. Morrison requires a budget amendment to transfer funding from the Salary and Benefits Budget to the Contract Services Budget in the Public Works Department. Therefore, this item requires a resolution amending the budget to implement the budget transfer. A draft resolution is attached for Council consideration.

FISCAL IMPACT

There will be a net savings of \$40,000 in FY2011/12, and a net savings of \$85,000 per year thereafter.

ATTACHMENT

Draft Budget Resolution

Report Prepared By: Steven Jesberg
Public Works Director

**Reviewed and Forwarded
By City Manager:**

DRAFT

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA AMENDING THE FY2011-2012 GENERAL FUND BUDGET BY TRANSFERRING \$15,000 FROM THE PUBLIC WORKS DEPARTMENT SALARY & BENEFITS ACCOUNT TO THE PUBLIC WORKS DEPARTMENT CONTRACT SERVICES ACCOUNT FOR A PUBLIC WORKS INSPECTION SERVICE CONTRACT

WHEREAS, Public Works Maintenance Superintendent Ed Morrison has announced his desire to retire after over 37 years of service to the City of Capitola; and

WHEREAS, the City has determined that it is in its best financial interest to temporarily freeze the Superintendent position and hire Mr. Morrison as a consultant, which will achieve an ongoing net salary savings of \$85,000 annually; and

WHEREAS, effective January 1, 2012, Mr. Morrison will provide independent consulting services to the Public Works Department by performing the following tasks: Soquel Creek Lagoon Management, Inspection of Encroachment Permits, Tree Assessments, and other special projects as determined by the Public Works Director.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Capitola that the FY2011-2012 General Fund Budget shall be amended to transfer \$15,000 from the Public Works Department Salary & Benefits Account to the Public Works Department Contract Services Account for the Public Works Inspection Service contract.

BE IT FURTHER RESOLVED that the Finance Director is directed to record these changes into the City's accounting records in accordance with appropriate accounting practices.

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 22nd day of September, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dennis R. Norton, Mayor

ATTEST:

Pamela Greeninger, City Clerk, MMC



Item #: **3.H.**

CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 22, 2011

FROM: DEPARTMENT OF PUBLIC WORKS

DATE: SEPTEMBER 14, 2011

SUBJECT: APPROVE A THREE-YEAR CONTRACT WITH ED MORRISON FOR PUBLIC WORKS INSPECTION SERVICES IN AN AMOUNT NOT TO EXCEED \$30,000 PER YEAR, EFFECTIVE JANUARY 1, 2012

Recommended Action: By motion and roll call vote, approve a three-year contract with Ed Morrison for Public Works Inspection Services in an amount not to exceed \$30,000 per year, effective January 1, 2012.

BACKGROUND

The current Public Works Maintenance Superintendent, Ed Morrison, has announced his desire to retire at the end of this calendar year. In his current capacity, Mr. Morrison oversees the Department's maintenance crews and performs a multitude of inspection services, including construction inspection and creek and lagoon management.

In light of the current economic issues facing the city, the City Manager and Public Works Director have developed a plan to temporarily freeze the Maintenance Superintendent Position and contract with Mr. Morrison for inspection services. A three year contract has been negotiated with a scope of work that includes inspection of Capital Improvement Projects, Soquel Creek Lagoon Management, tree removal inspections, and special projects. The annual costs of the contract will not exceed \$30,000 and payment will be based on services performed.

DISCUSSION

Mr. Morrison, who has worked for the City of Capitola for 37 years has a great deal of experience and a wealth of historic knowledge on the operations of the Public Works Department that would be difficult to replace. This contract will allow the City to continue to benefit from this experience by retaining Mr. Morrison's service on key tasks performed by the Department of Public Works.

FISCAL IMPACT

The result of this contract and the temporary freezing of the Maintenance Superintendent position will result in a net reduction of the Public Works budgeted expenditures of \$85,000 annually.

ATTACHMENTS

Professional Services Agreement for Public Works Inspection Services

Report Prepared By: Steven Jesberg
Public Works Director

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

**CITY OF CAPITOLA
PROFESSIONAL SERVICES AGREEMENT**

**Public Works Inspection Service Contract
Ed Morrison**

THIS AGREEMENT is entered into on January 1 2012, by and between the City of Capitola, a Municipal Corporation, hereinafter called "City" and Ed Morrison, hereinafter called "Consultant".

WHEREAS, City desires certain services described in Appendix One and Consultant is capable of providing and desires to provide these services;

NOW, THEREFORE, City and Consultant for the consideration and upon the terms and conditions hereinafter specified agree as follows:

**SECTION 1
Scope of Services**

The services to be performed under this Agreement are for Public Works Inspection Services and further detailed in Appendix One.

**SECTION 2
Duties of Consultant**

All work performed by Consultant, or under its direction, shall be sufficient to satisfy the City's objectives for entering into this Agreement and shall be rendered in accordance with the generally accepted practices, and to the standards of, Consultant's profession.

Consultant shall not undertake any work beyond the scope of work set forth in Appendix One unless such additional work is approved in advance and in writing by City. The cost of such additional work shall be reimbursed to Consultant by City on the same basis as provided for in Section 4.

If, in the prosecution of the work, it is necessary to conduct field operations, security and safety of the job site will be the Consultant's responsibility excluding, nevertheless, the security and safety of any facility of City within the job site which is not under the Consultant's control.

Consultant shall meet with Director of Public Works, called "Director," or other City personnel, or third parties as necessary, on all matters connected with carrying out of Consultant's services described in Appendix One. Such meetings shall be held at the request of either party hereto. Review and City approval of completed work shall be obtained monthly, or at such intervals as may be mutually agreed upon, during the course of this work.

**SECTION 3
Duties of the City**

City shall make available to Consultant all data and information in the City's possession which City deems necessary to the preparation and execution of the work, and City shall actively aid and assist Consultant in obtaining such information from other agencies and individuals as necessary.

The Director may authorize a staff person to serve as his or her representative for conferring with Consultant relative to Consultant's services. The work in progress hereunder shall be reviewed from time to time by City at the discretion of City or upon the request of Consultant. If the work is satisfactory, it will be approved. If the work is not satisfactory, City will inform Consultant of the changes or revisions necessary to secure approval.

**SECTION 4
Fees and Payment**

Payment for the Consultant's services shall be made upon a schedule and within the limit, or limits shown, upon Appendix Two. Such payment shall be considered the full compensation for all personnel, materials, supplies, and equipment used by Consultant in carrying out the work. If Consultant is compensated on an hourly basis, Consultant shall track the number of hours Consultant, and each of Consultant's employees, has worked under this Agreement during each fiscal year (July 1 through June 30) and Consultant shall immediately notify City when the number of hours worked during any fiscal year by any of Consultant's employees reaches 900 hours. In addition each invoice submitted by Consultant to City shall specify the number of hours to date Consultant, and each of Consultant's employees, has worked under this Agreement during the current fiscal year.

**SECTION 5
Changes in Work**

City may order major changes in scope or character of the work, either decreasing or increasing the scope of Consultant's services. No changes in the Scope of Work as described in Appendix One shall be made without the City's written approval. Any change requiring compensation in excess of the sum specified in Appendix Two shall be approved in advance in writing by the City.

**SECTION 6
Time of Beginning and Schedule for Completion**

This Agreement will become effective when signed by both parties, and will terminate on the earlier of:

- The date Consultant completes the services required by this Agreement, as agreed by the City; or
- The date either party terminates the Agreement as provided below.

Work shall begin on or about January 1, 2012.

In the event that major changes are ordered or Consultant is delayed in performance of its services by circumstances beyond its control, the City will grant Consultant a reasonable adjustment in the schedule for completion provided that to do so would not frustrate the City's objective for entering into this Agreement. Consultant must submit all claims for adjustments to City within thirty calendar days of the time of occurrence of circumstances necessitating the adjustment.

**SECTION 7
Termination**

The contract shall be for a term of three (3) years with a mutual option of an additional two (2) years, and may only be terminated upon mutual consent of both the City and the Consultant. The City may terminate the contract for cause with 10 day notice if the consultant is found to have committed gross negligence in regards to duties under this contract.

SECTION 8 Insurance

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, or employees.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial Liability coverage (Occurrence Form CG 0001).
2. Insurance Services office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California.

Minimum Limits of Insurance

Consultant shall maintain limits no less than:

1. General Liability: **\$1,000,000** per occurrence and \$2,000,000 in aggregate (including operations, products and completed operations) (including operations, for bodily injury, personal and property damage).
2. Automobile Liability: **\$1,000,000** per accident for bodily injury and property damage.

Other Insurance Provisions

The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Capitola, its officers, officials, employees and volunteers are to be covered as additional insured's as respects: liability arising out of work or operations performed by or on behalf of the Consultant or automobiles owned, leased, hired or borrowed by the Consultant.
2. For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, returned receipt requested, has been given to the City.
4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

Verification of Coverage

Consultant shall furnish the City with original certificates and amendatory endorsements affecting coverage by this clause. The endorsements should be on forms provided by the City or on other than the City's forms provided those endorsements conform to City requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

**SECTION 9
Indemnification**

The City hereby agrees to defend, indemnify and hold harmless the Consultant from and against all claims, damages, losses, judgments, liabilities, expenses and other costs including litigation costs and attorney's fee, for injuries or damages to third persons, including but not limited to injury to person or property or wrongful death, arising directly or indirectly, out of any negligent act or omission of Consultant and alleged to have resulted, directly or indirectly, or wholly or partially, from Consultant's performance under this Agreement. This indemnification provision shall not be construed to, and shall not, service to indemnify Consultant against claims arising out of Consultant's intentional or criminal misconduct.

**SECTION 10
Civil Rights Compliance/Equal Opportunity Assurance**

Every supplier of materials and services and all consultants doing business with the City of Capitola shall be in compliance with the applicable provisions of the Americans with Disabilities Act of 1990, and shall be an equal opportunity employer as defined by Title VII of the Civil Rights Act of 1964 and including the California Fair Employment and Housing Act of 1980. As such, consultant shall not discriminate against any person on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, age or sex with respect to hiring, application for employment, tenure or terms and conditions of employment. Consultant agrees to abide by all of the foregoing statutes and regulations.

**SECTION 11
Legal Action/Attorneys' Fees**

If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which he or she may be entitled. The laws of the State of California shall govern all matters relating to the validity, interpretation, and effect of this Agreement and any authorized or alleged changes, the performance of any of its terms, as well as the rights and obligations of Consultant and the City.

**SECTION 12
Assignment**

This Agreement shall not be assigned without first obtaining the express written consent of the Director after approval of the City Council.

**SECTION 13
Amendments**

This Agreement may not be amended in any respect except by way of a written instrument which expressly references and identifies this particular Agreement, which expressly states that its purpose is to amend this particular Agreement, and which is duly executed by the City and Consultant. Consultant acknowledges that no such amendment shall be effective until approved and authorized by the City Council, or an officer of the City when the City Council may from time to time empower an officer of the City to approve and authorize such amendments. No representative of the City is authorized to obligate the City to pay the cost or value of services beyond the scope of services set forth in Appendix Two. Such authority is retained solely by the City Council. Unless expressly authorized by the City Council, Consultant's compensation shall be limited to that set forth in Appendix Two.

**SECTION 14
Miscellaneous Provisions**

1. *Project Manager.* Director reserves the right to approve the project manager assigned by Consultant to said work. No change in assignment may occur without prior written approval of the City.

2. *Consultant Service.* Consultant is employed to render professional services only and any payments made to Consultant are compensation solely for such professional services.

3. *Licensure.* Consultant warrants that he or she has complied with any and all applicable governmental licensing requirements.

4. *Other Agreements.* This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter, and no other agreement, statement or promise related to the subject matter of this Agreement which is not contained in this Agreement shall be valid or binding.

5. *City Property.* Upon payment for the work performed, or portion thereof, all drawings, specifications, records, or other documents generated by Consultant pursuant to this Agreement are, and shall remain, the property of the City whether the project for which they are made is executed or not. The Consultant shall be permitted to retain copies, including reproducible copies, of drawings and specifications for information and reference in connection with the City's use and/or occupancy of the project. The drawings, specifications, records, documents, and Consultant's other work product shall not be used by the Consultant on other projects, except by agreement in writing and with appropriate compensation to the City.

6. *Consultant's Records.* Consultant shall maintain accurate accounting records and other written documentation pertaining to the costs incurred for this project. Such records and documentation shall be kept available at Consultant's office during the period of this Agreement, and after the term of this Agreement for a period of three years from the date of the final City payment for Consultant's services.

7. *Independent Contractor.* In the performance of its work, it is expressly understood that Consultant, including Consultant's agents, servants, employees, and subcontractors, is an independent contractor solely responsible for its acts and omissions, and Consultant shall not be considered an employee of the City for any purpose.

8. *Conflicts of Interest.* Consultant stipulates that corporately or individually, its firm, its employees and subcontractors have no financial interest in either the success or failure of any project which is, or may be, dependent on the results of the Consultant's work product prepared pursuant to this Agreement.

9. *Notices.* All notices herein provided to be given, or which may be given by either party to the other, shall be deemed to have been fully given and fully received when made in writing and deposited in the United States mail, certified and postage prepaid, and addressed to the respective parties as follows:

CITY
CITY OF CAPITOLA
420 Capitola Avenue
Capitola, CA 95010
831-475-7300

CONSULTANT
Ed Morrison
741 Corcoran Avenue
Santa Cruz, CA 95062
(831) 462-0317

By: _____
Benjamin Goldstein, City Manager

By: _____
Ed Morrison

Dated: _____

Dated: _____

Approved as to Form:

John G. Barisone, City Attorney

APPENDIX ONE
Public Works Inspection Services
Scope of Work

1. Soquel Creek Lagoon Management. Work to include:
 - a. Obtain and maintain all permits required for management of Soquel Creek Lagoon
 - b. Interface with all regulatory agencies and other consultants as necessary
 - c. Ensure compliance with all permits conditions, including filing of written reports.
Copies of all written correspondence and reports shall be filed with the City
 - d. Manage and oversee closure of the lagoon starting on or around May 20th each year, including coordination of rental equipment
 - e. Inspect the flume and lagoon, once a week from closure to opening, with oral report to Public Works Director
 - f. Manage and oversee the opening of the lagoon as necessary to prevent flooding
 - g. Coordinate and consult on annual Soquel Creek Monitoring Report
2. Inspect all encroachment permit activities. Work to include:
 - a. Review encroachment permits issued by Public Works staff
 - b. Meet contractor on site to discuss work and review plans and standards
 - c. Inspect work as necessary, minimum two site inspections, one progress, and one at completion of work.
 - d. Complete inspection report and file with Public Works
3. Perform initial tree assessments for all tree permit applications. Work to include:
 - a. Reviewing tree permit applications
 - b. Complete field inspection report and file report with Community Development staff
4. Special Project as defined by the Public Works Director. Work to include:
 - a. Construction inspection on Capital Improvement Projects
 - i. Coordinate with contractor and other parties as necessary
 - ii. Daily inspections of ongoing work
 - iii. Complete daily inspection report and file with Public Works staff
 - b. Special project coordination and inspection.
 - i. Review project with Public Works staff
 - ii. Obtain bids from local contractors as directed
 - iii. Coordinate work contractors and others as necessary
 - iv. Daily inspections of ongoing work
 - v. Complete daily inspection report and file with Public Works staff
 - c. Other duties as directed

**APPENDIX TWO
Fees and Payments**

For the services preformed, City will pay consultant on a time-charge plus expense basis, monthly as charges accrue, the sum of consultant's salary expenses and non-salary expenses.

Salary expenses include the actual direct pay of personnel assigned to the project (except for routine secretarial and account services) plus payroll taxes, insurance, sick leave, holidays, vacation, and other fringe benefits. The percentage of compensation attributable to salary expenses includes all of Consultant's indirect overhead costs and fees. For purposes of this Agreement, Consultant's salary expenses and non-salary expenses will be compensated at the rates set forth in the fee schedule attached to this appendix and in accordance with the terms set forth therein. Non-salary expenses include travel, meals and lodging while traveling, materials other than normal office supplies, reproduction and printing costs, equipment rental, computer services, service of subconsultants or subcontractors, and other identifiable job expenses. The use of Consultant's vehicles for travel shall be paid at the current Internal Revenue Service published mileage rate.

Salary payment for personnel time will be made at the rates set forth in the attached fee schedule for all time charged to the project. Normal payroll rates are for 40 hours per week. Consultant shall not charge the City for personnel overtime salary at rates higher than those set forth in the attached fee schedule without the City's prior written authorization.

In no event shall the total fee charged for the scope of work set forth in Appendix One exceed the total annual budget of \$30,000 (Thirty Thousand Dollars and Zero Cents), for a total contract amount of \$90,000 (Ninety Thousand Dollars and Zero Cents) without specific, written advance authorization from the City.

Payments shall be made monthly by the City, based on itemized invoices from the Consultant which list actual costs and expenses. Such payments shall be for the invoice amount. The monthly statements shall contain the following affidavit signed by a principal of the Consultant's firm:

"I, Ed Morrison, hereby certify that the charge of \$_____ as summarized above and shown in detail on the attachments is fair and reasonable, is in accordance with the terms of the Agreement dated , __, and has not been previously paid."

Consultant	Hourly Rate
Ed Morrison	\$75.00



CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 22, 2011

FROM: DEPARTMENT OF PUBLIC WORKS
 DATE: SEPTEMBER 14, 2011
 SUBJECT: DISCUSSION OF POSSIBLE SKATE PARK SITES

Recommended Action: Conduct public hearing and provide direction to staff on the possible development of a skate park in the City.

BACKGROUND

In 2006 and 2007 the City held a series of public hearing to discuss possible locations for a skate park. Sites discussed at the time included:

Site	Positives	Negatives
McGregor	City owned Space for park and parking	<ul style="list-style-type: none"> • Remote location • Potential for vandalism & crime • Limited pedestrian access as compared to other sites • Maintenance concerns • No restrooms
Monterey Park	City Owned Existing recreation facility Nearby population of users	<ul style="list-style-type: none"> • Limited space without impacting existing park uses • Proximity to residents • Proximity to school (open during school hours?) • No restrooms
38 th Ave. & Brommer Street detention facility	Large area Unique shared-use of property that currently is closed to public	<ul style="list-style-type: none"> • Expensive • Design issues of integrating detention/percolation facility with skate park • Proximity to residents • Lack of existing off-street parking • No restrooms

More recently the City Council considered the possibility of building a skate park on the Rispin site. However that site is subject to numerous site constraints which make a skate park project difficult to implement.

Given the constraints to the other sites previously considered for a skate park, staff has focused this discussion on Monterey Park. Residents living within 500 feet of the park were sent notice of this hearing, including Soquel Union Elementary School District.

DISCUSSION

Recent discussions regarding a skate park have focused around providing a smaller beginner skate park suitable for younger riders. At a minimum, such a park requires 2,000 SF, and could be increased in size depending on the Council's direction. As background, the Jose Ave. skate park is 4,000 SF and the Scott's Valley skate park is 20,000 SF.

The location at Monterey Park which could most easily accommodate a facility of that size is the eucalyptus grove located directly east of the School District offices (Attachment 1). A skate park in that location would require the removal of most, if not all, the eucalyptus trees. Pursuant to the City's tree ordinance, replacement trees would be planted at other suitable locations in the Park.

Should Council wish to consider a skate park, staff offers several design principles which would apply to any possible skate park location. First, the skate park should be in a highly visible location. Not only does this improve the police's ability to patrol the site, but it also helps to reduce unwanted behavior on the site. The City of Seattle has published a list of skate park design principles, and the first principle reads,

Select locations that are not isolated from other people and other uses. Put a priority on places where women and men of all ages will be safe and comfortable. Best places have both pedestrian and vehicular traffic along skate park. Corner locations are desirable.

The second design principle staff recommends the Council consider in locating a skate park is to incorporate other uses adjacent to the skate park to encourage a more vibrant site that is used by a range of ages and community members. For example, a tot lot or playground adjacent to a skate park could help to create a self-policing atmosphere.

Regardless of the site location, it is probable a skate park will increase service demand for both the Police and Public Works departments. This increase can be expected due to issues of graffiti, vandalism, loitering, and various nuisance issues. The level of these demands will greatly depend on the expectations of the public and the Council, the site location, and the site design.

LIABILITY ISSUES

Current law provides public entities with a qualified immunity from liability for skateboard-related injuries under certain circumstances. In addition, the common-law assumption of risk doctrine provides some protection against liability for skateboard-related injuries. In order to qualify for the specific skateboard-related immunities, the City must adopt an ordinance and post signs requiring the use of helmets, knee pads, and elbow pads. Such immunity does not apply to skate boarders under the age of 12. The Health and Safety Code Section which provides such immunity expires in 2012; however SB 264, which was recently passed by the Legislature and is pending the Governor's signature, will delete that expiration allowing that immunity to continue. See attachment for a more detailed discussion of liability issues.

FISCAL IMPACT

The construction of a skate park has been included in the 5-year Capital Improvement Program as an unfunded project since 2004. No site has been identified nor has any funding been identified for feasibility studies, design, construction or other work.

The estimated cost for construction of a skate park is \$50 per square foot. This price does not include any site improvements such as parking lots, restrooms, drainage, walkways, etc or any design and development costs.

The City of Santa Cruz park was constructed at a total project cost of \$1.3 million. The park at Scotts Valley was built at a total project cost of \$750,000. The Fun Spot in Santa Cruz (no longer in use), which utilized temporary movable ramp structures, was built for \$120,000.

These costs reflect the construction costs only. Development and design costs will vary per site and the type of park being developed and there will additional costs for restrooms, parking lots, and other site improvements.

Staff has not assessed the capacity to raise funds for the development of a skate park, however members of the public at past meetings have indicated they believe private funding could be available.

The cost for increased Police and Public Works services should also be considered. While the size and design of the park will affect the time requirements to maintain the park, it can be assumed that daily public works maintenance for trash removal, landscaping other issues. One could easily foresee such a facility requiring 4 hours per week of the Park crew's time at annual cost of approximately \$10,000. If the park requires one Police call per week, their costs would be approximately \$10,000 annually. The Police costs are very difficult to predict and will fluctuate greatly based on the location of the park. Some accommodation will need to be made to provide service to the park for securing it in the evening. To contract with a private firm to lock the facility would cost approximately \$8,000 per year should the site be fenced and locked at night.

ATTACHMENTS

1. Map of Monterey Park
2. Liability discussion

Report Prepared By: Steven Jesberg
Public Works Director

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

Liability Discussion

Statutory Qualified Immunity

Government Code section 831.7 provides that public entities and public employees are not liable for any damage or injury arising out of a hazardous recreational activity to any person who participates in the activity, including any person who assists the participant, or to any spectator who knew or reasonably should have known that the hazardous recreational activity created a substantial risk of injury to himself or herself and was voluntarily in the place of risk. The term “hazardous recreational activity” is defined as a recreational activity conducted on the property of a public entity which creates a substantial (as distinguished from a minor, trivial, or insignificant) risk of injury to the participant or spectator. Section 831.7 also contains a non-exclusive list of activities designated as hazardous recreational activities, including, among other things: animal riding, including equestrian competition, archery, bicycle racing or jumping, mountain bicycling, boating, cross-country and downhill skiing, hang gliding, kayaking, motorized vehicle racing, off-road motorcycling or four-wheel driving of any kind, orienteering, pistol and rifle shooting, rock climbing, rocketeering, rodeo, spelunking, sky diving, sport parachuting, paragliding, body contact sports (i.e., sports in which it is reasonably foreseeable that there will be rough bodily contact with one or more participants), surfing, trampolining, tree climbing, tree rope swinging, waterskiing, white water rafting, and windsurfing. There is no reference to skateboards in Government Code section 831.7.

However, depending on the totality of the circumstances surrounding the injury, skateboarding has been found to be, in effect, a hazardous recreational activity, even though not specifically identified in Section 831.7. See *Bartell v. Palos Verdes Peninsula Sch. Dist.* (1978) 83 Cal. App. 3d 492, 496-98 (skateboard game similar to “crack the whip” found to be dangerous recreational activity); 81 Ops. Cal. Atty. Gen. 331 (1998) (“skateboarding may be considered a ‘hazardous recreational activity’ under the terms of subdivision (b) of section 831.7 even though it is not specifically so identified in the statute.”).

Moreover, Health and Safety Code section 115800 (“Section 115800”), which establishes requirements for skateboard parks, specifies that skateboarding at a public skateboard park that is owned or operated by a public entity is a hazardous recreational activity within the meaning of Section 831.7 if:

- (a) the person skateboarding is 12 years old or older;
- (b) the skateboarding activity that caused the injury was a stunt, trick, or luge skateboarding [Presumably luge skateboarding resembles the sport of luge where the participants lie on their backs on a sled]; and
- (c) the skateboard park is on public property, and
 - 1. Is monitored to ensure skateboarders wear a helmet, elbow pads, and knee pads.
 - 2. If the skateboard park is not monitored, the local public agency may satisfy this requirement by (a) adopting an ordinance, requiring any person riding a skateboard at the facility to wear a helmet, elbow pads, and knee pads, and (b) posting signs at the facility, giving reasonable notice that any person riding a skateboard in the facility must wear the specified safety gear, and that any person failing to do so will be subject to citation.

If any of the conditions specified in Section 115800 are not met, then the injury incurred at a skateboard park does not fall under the hazardous recreational immunity exception, and the municipality does not have statutory immunity from liability.

Section 115800 also requires local public agencies to maintain a record of all known or reported injuries incurred by skateboarders at a public skateboard park/facility, claims asserted and lawsuits filed, and requires them to file those records annually with the Judicial Council, which will then compile a statewide report and submit it to the Legislature. [Notably, the Judicial Council's March 13, 2002 report found that a total of 80 skateboarding injuries occurred at skateboard parks in nine cities during the 2001 calendar year and that none of these injuries resulted in a lawsuit against the city]. Reports are supposed to be filed by January 30 each year, and the Judicial Council is required to submit its report by March 31, 2007.

The provisions of Section 115800 sunset on January 1, 2012, unless extended by the Legislature.

Primary Assumption of Risk Doctrine

Generally, every individual has a duty to exercise ordinary care; failure to exercise reasonable care under the circumstances results in liability. The primary assumption of risk doctrine reduces a defendant's duty of care regarding injuries in sporting activities that maximize challenge, excitement and risks. It limits a defendant's liability when the inherent risks of the sport cannot be eliminated without destroying the sport itself. An activity falls within this doctrine if the activity is done for enjoyment or thrill, requires physical exertion and elements of skill, and involves a challenge containing a potential risk of injury. Even when assumption of risk applies, defendants generally do have a duty to use due care not to increase the risks to a participant over and above those inherent in the sport. In *Calhoon v. Lewis* (2000) 81 Cal. App. 4th 108, 115, California's Fourth District Court of Appeal found that these factors apply to skateboarding and concluded that "[s]kateboarding is a type of activity covered by the primary assumption of risk doctrine." Thus, defendants (either public or private) generally cannot be held liable for risks inherent in the sport of skateboarding.

Insurance Coverage

The City of Capitola is covered for liability insurance through the Monterey Bay Area Self Insurance Authority. The governing provisions for liability coverage are contained in the Authority approved Memorandum of Coverage. Currently the Memorandum of Coverage is silent with regard to skate park liability coverage. That however is about to change. At the next meeting of the Authority, or perhaps the next regularly scheduled meeting immediately after, the Authority will consider a change in the memorandum of coverage to explicitly cover skate parks only in so far as all available statutory immunities are in place. This in particular is meant to address supervision of skate parks, understanding that the maximum immunities are in place when there is no supervision the park.



Item #: 5.A.

CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 22, 2011

FROM: CITY MANAGER'S DEPARTMENT

DATE: SEPTEMBER 6, 2011

SUBJECT: ENVIRONMENTALLY ACCEPTABLE PACKAGING MATERIALS: ORDINANCE AMENDING SECTIONS 8.36.010, 8.36.020, 8.36.030, 8.36.040, 8.36.050, 8.36.060 AND 8.36.070 OF THE CAPITOLA MUNICIPAL CODE PERTAINING TO THE USE OF POLYSTYRENE FOAM AND BIODEGRADABLE AND COMPOSTABLE DISPOSABLE FOOD SERVICE WARE [1ST READING]

Recommended Action: By motion and roll call vote, that the City Council pass the proposed Ordinance Amending Sections 8.36.010, 8.36.020, 8.36.030, 8.36.040, 8.36.050, 8.36.060 and 8.36.070 of the Capitola Municipal Code pertaining to the use of Polystyrene Foam and Biodegradable and Compostable Disposable Food Service Ware, to a second reading.

BACKGROUND

In 2006, a food packaging ordinance was adopted which prohibited the use of disposable food service ware composed of polystyrene foam (Styrofoam) with a few exceptions. In 2009 the City Council completely banned polystyrene foam food service ware. Recently, the Mayor requested staff prepare an amendment to the existing ordinance to ban the sale of all polystyrene foam products from being sold in all retail vendor establishments in the City.

DISCUSSION

The City of Capitola borders the Monterey Bay National Marine Sanctuary, one of the most unique places in the world. The sanctuary supports one of the world's most diverse marine ecosystems, it is home to 33 mammals, 94 species of seabirds, 345 species of fish, and numerous invertebrates and plants in a remarkably productive coastal environment.

Expanded polystyrene foam (EPS), often referred to as Styrofoam is pervasive in the environment, is extremely damaging throughout its lifecycle, and is rarely recycled. Approximately 15% of street litter and litter in storm drains in many urban municipalities is polystyrene. Because it is lightweight and floats, EPS is easily swept from streets and through storm drains out to the ocean. In the environment, the containers break down into small pieces that are easily mistaken for food by marine wildlife.

The proposed ordinance amendment will ban the sale of any polystyrene foam product such as cups, plates, bowls and coolers in every retail store within city limits. Retail store means any store that sells goods or merchandise located or operating within the city of Capitola. Products that are packaged outside of the city would be exempt from this amendment.

The Mayor and a member of Save Our Shores conducted a public outreach effort the last week of August to over 20 businesses in Capitola including; CVS, Bev Mo, New Leaf, Whole Foods, Nob Hill, UPS & FedEx, Save Mart and Rite Aid informing them of the proposed ban. All of the businesses were supportive of the ban.

FISCAL IMPACT

Implementation and enforcement costs of the ordinance in staff time are approximately 5 hours a month.

ATTACHMENTS

1. Draft Ordinance
2. Municipal Code Chapter 8.36 with proposed amendments

Report Prepared By: Lisa G. Murphy
Administrative Services Manager

Reviewed & Forwarded by:

City Manager	<i>JG</i>
City Clerk	<i>Pam</i>

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA AMENDING SECTIONS 8.36.010, 8.36.020, 8.36.030, 8.36.040, 8.36.050, 8.36.60 AND 8.36.070 OF THE CAPITOLA MUNICIPAL CODE PERTAINING TO THE USE OF POLYSTYRENE FOAM AND BIODEGRADABLE AND COMPOSTABLE DISPOSABLE FOOD SERVICE WARE

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

Section 1. Subsection T. of Capitola Municipal Code Section 8.36.010, Findings and intent, is hereby amended to read as follows:

T. Restricting the use of all polystyrene foam ~~products food service ware products~~ and replacing non-biodegradable food service ware with biodegradable food service ware products in Capitola will further protect the public health and safety of the residents of Capitola, the City of Capitola’s natural environment, waterways and wildlife, would advance the City’s goal of Developing a Sustainable City, advance the City’s goal of Zero Waste by 2020 and fulfill Article 10 of the Environmental Accords, whereby Capitola partnered with other cities across the globe in signing a commitment to eliminate or restrict the use of one chemical or environmental hazard every year.

Section 2. Subsections F., G., K., L., M., N., and O. of Capitola Municipal Code Section 8.36.020, Definitions, are hereby amended to read as follows:

"F. “Customer” means any person obtaining prepared food, merchandise or product from a restaurant or Retail food vendor, or retail vendor.

G. “Disposable food service ware” means all containers, bowls, plates, trays, cartons, cups, forks, spoons, knives and other items that are designed for one-time use and on, or in, which any restaurant, retail vendor or retail food vendor directly places or packages Prepared Foods or which are used to consume foods. This includes, but is not limited to, service ware for takeout foods and/or leftovers from partially consumed meals prepared at restaurants, sold at restaurants, retail vendors or retail food vendors.

K. “Products” means any product such as coolers, ice chests, cups bowls, plates, containers, forks, spoons, knives or other products or merchandise which contain polystyrene foam.

KL. “Restaurant” means any establishment located within the City of Capitola that sells Prepared Food for consumption on, near, or off its premises by Customers. Restaurant for purposes of this Chapter includes Itinerant Restaurants, Pushcarts and Vehicular Food Vendors.

L.M. “Retail Food Vendor” means any store, shop, sales outlet, or other establishment, including a grocery store or a delicatessen, other than a Restaurant, located within the City of Capitola that sells Prepared Food.

N. “Retail vendor” means any store that sells goods or merchandise located or operating within the city of Capitola.

M.O. “Special Events Promoter” means an applicant for any special events permit issued by the City or any City employee(s) responsible for any City organized special event.”

Section 3. Capitola Municipal Code Section 8.36.030 is hereby amended to read as follows:

“8.36.030 Prohibited food service ware and products.

A. Except as provided in Section 8.36.050, food and retail vendors are prohibited from providing prepared food to customers in disposable food service ware or any product that uses polystyrene foam.

B. All city facilities are prohibited from using polystyrene foam disposable food service ware or polystyrene foam products and all city departments and agencies will not purchase or acquire polystyrene foam disposable food service ware or polystyrene foam products for use at city facilities.

C. City franchises, special event promoters, contractors and vendors doing business with the City shall be prohibited from using Polystyrene Foam Disposable Food Service Ware or polystyrene foam products in the City of Capitola.”

Section 4. Subsection B. of Capitola Municipal Code Section 8.36.040, Required Biodegradable and Compostable Disposable Food Service Ware, is hereby amended to read as follows:

“B. All City Facilities will use Biodegradable or Compostable Disposable Food Service Ware or polystyrene foam products.”

Section 5. Subsections D., E., and F. of Capitola Municipal Code Section 8.36.050, Exemptions, are hereby amended to read as follows:

~~“D. Polystyrene Foam coolers and ice chests are not exempt from the provisions of this Chapter.~~

~~“E. Disposable Food Service Ware composed entirely of aluminum is exempt from the provisions of this Chapter.~~

E. Meat trays are exempt from the provisions of this chapter.

F. Emergency Supply and Services Procurement: In a situation deemed by the City Manager to be an emergency for the immediate preservation of the public peace, health or safety, City Facilities, Food Vendors, Retail Vendors, City franchises, contractors and vendors doing business with the City shall be exempt from the provisions of this Chapter.”

Section 6. Subsections A., B., and C. of Capitola Municipal Code Section 8.36.060, Liability and Enforcement, is hereby amended to read as follows:

“A. The City Manager or his/her designee will have primary responsibility for enforcement of this Chapter. The City Manager or his/her designee is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this Chapter, including, but not limited to, entering the premises of any Food or retail Vendor to verify compliance.

B. City facilities, food vendors, retail food vendors, retail vendors and restaurants will be given three (3) months from the effective date of this ordinance to comply with the provisions herein.

C. If, after the first three (3) months of the effective date of this ordinance, the City Manager or his/her designee determines that a violation of this chapter occurred, he/she will issue a written warning notice to the retail food establishment that a violation has occurred, specifying a three (3) month time period for the food or retail vendor to conform to the provisions of this Chapter.”

Section 7. Capitola Municipal Code Section 8.36.070, Violations - Penalties, is hereby amended to read as follows:

“8.36.070 Violations – Penalties.

A. If the City Manager or his/her designee determines that a violation of this Chapter occurred, he/she will issue a written warning notice to the food or retail vendor or special event promoter that a violation has occurred, and be given three (3) months to conform to the provisions of this Chapter.

B. If the food or retail vendor has subsequent violations of this Chapter, the following penalties will apply:

1. A fine not exceeding one hundred dollars (\$100.00) for the first violation after the warning notice is given.
2. A fine not exceeding two hundred dollars (\$200.00) for the second violation after the warning notice is given.
3. A fine not exceeding five hundred dollars (\$500.00) for the third and any future violations after the warning notice is given.”

Section 8. This ordinance shall take effect and be in full force thirty (30) days after its final adoption.

This ordinance was introduced on the 22nd day of September, 2011, and was passed and adopted by the City Council of the City of Capitola on the 13th day of October, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED: _____

Dennis R. Norton, Mayor

ATTEST:

_____, MMC
Pamela Greeninger, City Clerk

CAPITOLA MUNICIPAL CODE – PROPOSED AMENDMENTS

Chapter 8.36
ENVIRONMENTALLY ACCEPTABLE PACKAGING MATERIALS

Sections:

- 8.36.010 Findings and intent.
- 8.36.020 Definitions.
- 8.36.030 Prohibited Food Service Ware and Products.
- 8.36.040 Required Biodegradable and Compostable Disposable Food Service Ware
- 8.36.050 Exemptions
- 8.36.060 Liability and Enforcement
- 8.36.070 Violations – Penalties
- 8.36.080 Study
- 8.36.090 Severability

8.36.010 Findings and intent.

The City Council finds and declares:

- A. The City of Capitola has a duty to protect the natural environment, the economy, and the health of its citizens.
- B. Effective ways to reduce the negative environmental impacts of throw-away food service ware include reusing food service ware and using compostable and biodegradable take-out materials made from renewable resources such as paper, corn starch and sugarcane.
- C. Polystyrene foam is a common environmental pollutant as well as a non-biodegradable substance that is commonly used as food service ware by food vendors operating in the City of Capitola.
- D. There continues to be no meaningful recycling of polystyrene foam food service ware and biodegradable or compostable food service ware is an affordable, safe, more ecologically sound alternative.
- E. Affordable biodegradable or compostable food service ware products are increasingly available for several food service applications such as cold cups, plates and hinge containers and these products are more ecologically sound than polystyrene foam materials and can be turned into a compost product.
- F. New Leaf Markets, Grinds Coffee Shop, and other Capitola businesses have successfully eliminated the use of polystyrene and non-biodegradable packaging materials in the operation of their businesses.
- G. The Oakland Coliseum has successfully replaced its cups with biodegradable cornstarch cups and has shown an overall cost savings due to organics recycling.
- H. Over 155 businesses in Oakland engage in organics recycling and it has been demonstrated that the use of biodegradable or compostable food service ware can reduce waste disposal costs when the products are taken to composting facilities as part of an organics recycling program rather than disposed in a landfill.

I. The natural compost product from these biodegradable or compostable materials is used as fertilizer for farms and gardens, thereby moving towards a healthier zero waste system.

J. Disposable food service ware constitutes a large portion of the litter in Capitola's lagoon, waterways and storm drains, and on the beaches, streets, parks and public places and the cost of managing this litter is high and rising.

K. Polystyrene foam is notorious as a pollutant that breaks down into smaller, non-biodegradable pieces that are ingested by marine life and other wildlife thus harming or killing them.

L. Due to the physical properties of polystyrene, the EPA states "that such materials can also have serious impacts on human health, wildlife, the aquatic environment and the economy."

M. A 1986 EPA report on solid waste named the polystyrene manufacturing process as the fifth largest creator of hazardous waste in the United States.

N. In the product manufacturing process as well as the use and disposal of the products, the energy consumption, greenhouse gas effect, and total environmental effect, polystyrene's environmental impacts were second highest, behind aluminum, according to the California Integrated Waste Management Board.

O. Styrene, a component of polystyrene, is a known hazardous substance that medical evidence and the Food and Drug Administration suggests leaches from polystyrene containers into food and drink.

P. Styrene is a suspected carcinogen and neurotoxin which potentially threatens human health.

Q. Styrene has been detected in the fat tissue of every man, woman and child tested by the EPA in a 1986 study.

R. The general public is not typically warned of any potential hazard, particularly in the immigrant and non-English-speaking community.

S. Due to these concerns nearly 100 cities have banned polystyrene foam food service ware including several California cities, and many local businesses and several national corporations have successfully replaced polystyrene foam and other non-biodegradable food service ware with affordable, safe, biodegradable products.

T. Restricting the use of all polystyrene foam products ~~food service ware products~~ and replacing non-biodegradable food service ware with biodegradable food service ware products in Capitola will further protect the public health and safety of the residents of Capitola, the City of Capitola's natural environment, waterways and wildlife, would advance the City's goal of Developing a Sustainable City, advance the City's goal of Zero Waste by 2020 and fulfill Article 10 of the Environmental Accords, whereby Capitola partnered with other cities across the globe in signing a commitment to eliminate or restrict the use of one chemical or environmental hazard every year.

8.36.020 Definitions.

Unless otherwise expressly stated, whenever used in this chapter the following terms shall have the meanings set forth below:

A. “Affordable” means purchasable by the Food Vendor for same or less purchase cost than the non-Biodegradable, non-Polystyrene Foam alternative.

B. “ASTM Standard” means meeting the standards of the American Society for Testing and Materials (ASTM) International standards D6400 or D6868 for biodegradable and compostable plastics.

C. “Biodegradable” means the entire product or package will completely break down and return to nature, i.e., decompose into elements found in nature within a reasonably short period of time after customary disposal.

D. “Compostable” means all materials in the product or package will break down into, or otherwise become part of, usable compost (e.g., soil-conditioning material, mulch) in a safe and timely manner in an appropriate composting program or facility, or in a home compost pile or device. Compostable Disposable Food Service Ware includes ASTM-Standard Bio-Plastics (plastic-like products) that are clearly labeled, preferably with a color symbol, such that any compost collector and processor can easily distinguish the ASTM Standard Compostable plastic from non-ASTM Standard Compostable plastic.

E. “City Facilities” means any building, structure or vehicles owned or operated by the City of Capitola, its agent, agencies, departments and franchisees.

F. “Customer” means any person obtaining prepared food, merchandise or product from a restaurant or Retail food vendor, or retail vendor.

G. “Disposable food service ware” means all containers, bowls, plates, trays, cartons, cups, forks, spoons, knives and other items that are designed for one-time use and on, or in, which any restaurant, retail vendor or retail food vendor directly places or packages Prepared Foods or which are used to consume foods. This includes, but is not limited to, service ware for takeout foods and/or leftovers from partially consumed meals prepared at restaurants, sold at restaurants, retail vendors or retail food vendors.

H. “Food vendor” means any restaurant or retail food vendor located or operating within the City of Capitola.

I. “Polystyrene Foam” means and includes blown polystyrene and expanded and extruded foams (sometimes called Styrofoam, a Dow Chemical Co. trademarked form of polystyrene foam insulation) which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene). Polystyrene Foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons.

J. “Prepared Food” means Food or Beverages, which are served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared on the Food Vendor’s premises or within the City of Capitola. For the purposes of this ordinance, Prepared Food includes raw, butchered meats, fish and/or poultry sold from a butcher case or similar retail appliance. Prepared Food may be eaten either on or off the premises, also known as “takeout food”.

K. “Products” means any product such as coolers, ice chests, cups bowls, plates, containers, forks, spoons, knives or other products or merchandise which contain polystyrene foam.

KL. “Restaurant” means any establishment located within the City of Capitola that sells Prepared Food for consumption on, near, or off its premises by Customers. Restaurant for purposes of this Chapter includes Itinerant Restaurants, Pushcarts and Vehicular Food Vendors.

LM. “Retail Food Vendor” means any store, shop, sales outlet, or other establishment, including a grocery store or a delicatessen, other than a Restaurant, located within the City of Capitola that sells Prepared Food.

N. “Retail vendor” means any store that sells goods or merchandise located or operating within the city of Capitola.

M.O. “Special Events Promoter” means an applicant for any special events permit issued by the City or any City employee(s) responsible for any City organized special event.”

8.36.030 Prohibited food service ware and products.

A. Except as provided in Section 8.36.050, food and retail vendors are prohibited from providing prepared food to customers in disposable food service ware or any product that uses polystyrene foam.

B. All city facilities are prohibited from using polystyrene foam disposable food service ware or polystyrene foam products and all city departments and agencies will not purchase or acquire polystyrene foam disposable food service ware or polystyrene foam products for use at city facilities.

C. City franchises, special event promoters, contractors and vendors doing business with the City shall be prohibited from using Polystyrene Foam Disposable Food Service Ware or polystyrene foam products in the City of Capitola.

8.36.040 Required biodegradable and compostable disposable food service ware.

A. All food vendors using any disposable food service ware will use Biodegradable or Compostable Disposable Food Service Ware unless they can show a Biodegradable or Compostable product is not available for a specific application or does not exist. A Food Vendor may charge a “take out fee” to customers to cover the cost difference.

B. All City Facilities will use Biodegradable or Compostable Disposable Food Service Ware or polystyrene foam products.

C. City franchises, special events promoter, contractors and vendors doing business with the City will use Biodegradable or Compostable Disposable Food Service Ware unless they can show a Biodegradable or Compostable product is not available for a specific application or does not exist.

8.36.050 Exemptions.

A. Prepared Foods prepared or packaged outside the City of Capitola are exempt from the provisions of this Chapter. Purveyors of food prepared or packaged outside the City of Capitola are encouraged to follow the provisions of this Chapter.

B. Food Vendors will be exempted from the provisions of this Chapter for specific items or types of Disposable Food Service Ware if the City Manager or his/her designee finds that a Biodegradable or Compostable alternative does not exist.

C. To apply for an exemption from the requirement set forth in 8.36.040, a food vendor must submit an application to the City Manager. The application shall include all information necessary for the City Manager or the Manager's designee to make a decision, including but not limited to documentation showing factual support for the claimed exemption.

~~D. Polystyrene Foam coolers and ice chests are not exempt from the provisions of this Chapter.~~

ED. Disposable Food Service Ware composed entirely of aluminum is exempt from the provisions of this Chapter.

E. Meat trays are exempt from the provisions of this chapter.

F. Emergency Supply and Services Procurement: In a situation deemed by the City Manager to be an emergency for the immediate preservation of the public peace, health or safety, City Facilities, Food Vendors, Retail Vendors, City franchises, contractors and vendors doing business with the City shall be exempt from the provisions of this Chapter.

Section 8.36.060 Liability and Enforcement.

A. The City Manager or his/her designee will have primary responsibility for enforcement of this Chapter. The City Manager or his/her designee is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this Chapter, including, but not limited to, entering the premises of any Food or retail Vendor to verify compliance.

B. City facilities, food vendors, retail food vendors, retail vendors and restaurants will be given three (3) months from the effective date of this ordinance to comply with the provisions herein.

C. If, after the first three (3) months of the effective date of this ordinance, the City Manager or his/her designee determines that a violation of this chapter occurred, he/she will issue a written warning notice to the retail food establishment that a violation has occurred, specifying a three (3) month time period for the food or retail vendor to conform to the provisions of this Chapter.

D. Violation or failure to comply with any of the requirements of this Chapter shall constitute an infraction pursuant to Chapter Title 4 of the Capitola Municipal Code.

E. The City Attorney may seek legal, injunctive, or other equitable relief to enforce this Chapter.

8.36.070 Violations – Penalties.

A. If the City Manager or his/her designee determines that a violation of this Chapter occurred, he/she will issue a written warning notice to the Food or retail Vendor or special event promoter that a violation has occurred, and be given three (3) months to conform to the provisions of this Chapter.

B. If the food or retail vendor has subsequent violations of this Chapter, the following penalties will apply:

1. A fine not exceeding one hundred dollars (\$100.00) for the first violation after the warning notice is given.
2. A fine not exceeding two hundred dollars (\$200.00) for the second violation after the warning notice is given.
3. A fine not exceeding five hundred dollars (\$500.00) for the third and any future violations after the warning notice is given.

Section 8.36.080 Study.

One year after the effective date of this Chapter, the City Manager will conduct a study on the effectiveness of this Chapter.

Section 8.36.090 Severability.

The provisions of this chapter are declared to be severable and if any provision, sentence, clause, section or part of this chapter is held illegal, invalid, unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this chapter or their application to persons and circumstances.”

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Item #: **5.B.**

CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 22, 2011

FROM: DEPARTMENT OF PUBLIC WORKS

DATE: SEPTEMBER 14, 2011

SUBJECT: REPORT ON IMPLEMENTATION OF THE PARKING PAY STATIONS IN
CAPITOLA VILLAGE

Recommended Action: Accept this report and provide comments on the implementation for the pay station program in Capitola Village.

BACKGROUND

The pay stations for the village are due to be delivered by September 30th and Public Works anticipates it will take three to four weeks to install them. At this time, staff has developed an Implementation Plan to assist the public during the initial switch over to the new pay for parking systems. The new pay stations will be deployed along the Esplanade, San Jose Avenue, and lower portion of Monterey Avenue as shown on the map included as Attachment 1.

DISCUSSION

The Implementation Plan included as Attachment 2, was developed by the Public Works Department and the Police Department. The highlights of the plan include the following:

- A signage plan with highly visible signs at each pay station
- Press release timed with the startup date
- Pay stations operations to start up on a Wednesday or Thursday
- Parking Enforcement Officers and Traffic and Parking Commissioners providing assistance from initial start and lasting through two full weekends
- Distribution of an informational brochure, draft copy included as Attachment 3, to businesses, the Chamber of Commerce, and to the public

FISCAL IMPACT

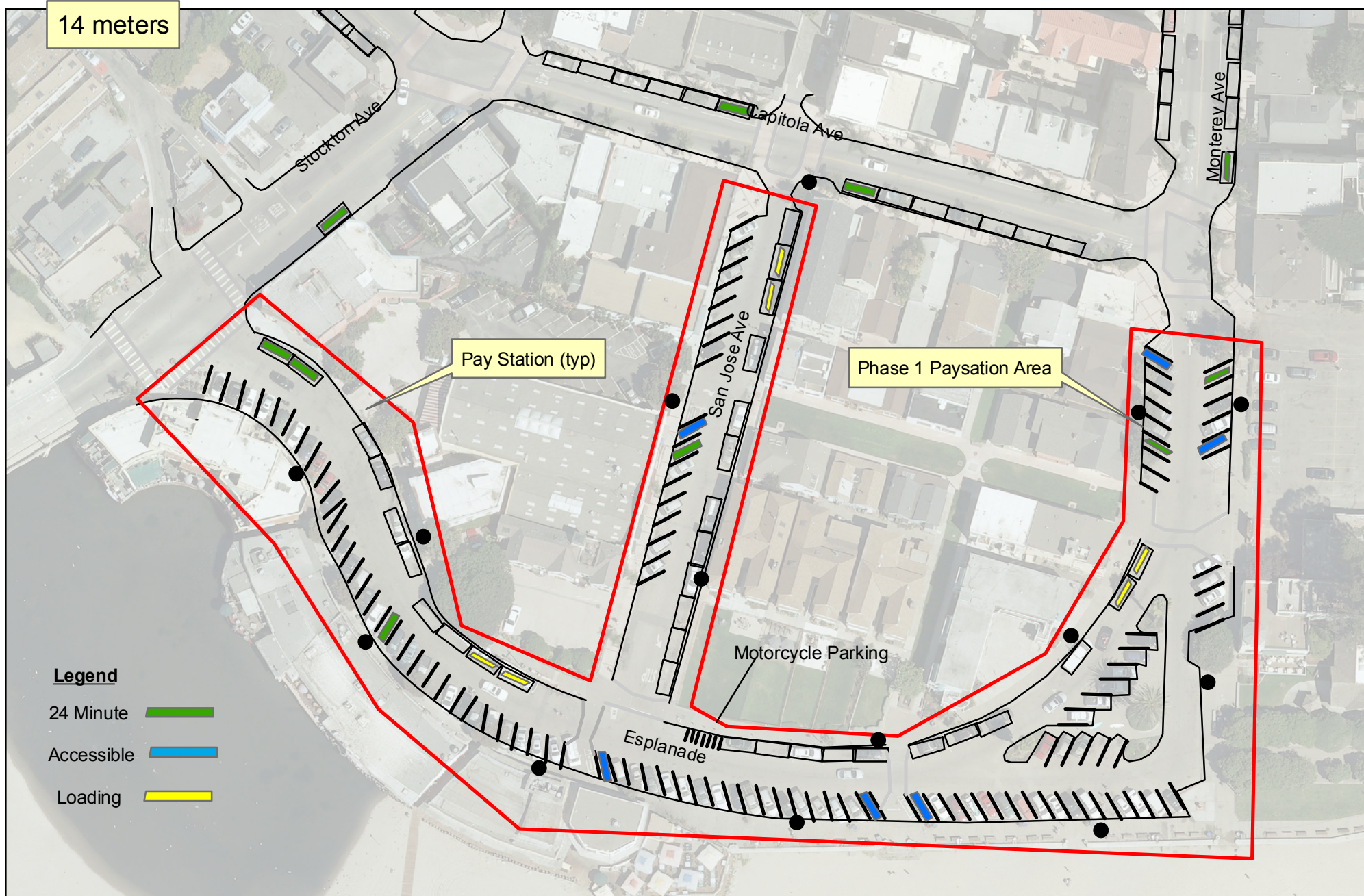
The only expense to the implementation plan will be the printing for the brochure which is estimated at \$500. This expense will be paid out of the Public Works materials and supply budget.

ATTACHMENTS

1. Pay station deployment map
2. Draft implementation plan
3. Proposed signs
4. Draft informational brochure

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

**Reviewed and Forwarded
By City Manager:**



Pay Station Implementation Plan

Space Numbering

All spaces in deployment area will be numbered with a four digit number. Numbers will be placed in the roadway in back of the space and on the top of curb.

Signage

1. Place “Pay Here To Park” signs at every pay station. Signs shall be at a height of seven feet to provide good visibility. Goal: a visitor should be able to see more than one sign when they park.
2. Place “Remember your Space Number” sign on existing meter poles. Signs will be lower and primarily visible to drivers in vehicles. Area will be flooded with these signs initially, then the number reduced as visitors gain familiarity with the system (based on input received from users).

Training

The following staff members shall be trained on the operations and maintenance of the pay stations:

1. Parking Enforcement Officers
2. Police Department front office staff
3. City Hall finance staff
4. Public Works management
5. Traffic and Parking Commissioners

Public Notification of Start-up

1. Issue press release
2. Distribute informational brochure to
 - a. Village Businesses
 - b. Parking Enforcement personnel
 - c. Chamber of Commerce

Installation

1. All pay stations and signage will be covered when placed until they are start up date
2. Upon start up, existing parking meters will be covered and removed ASAP to avoid confusion
3. Existing meter poles will remain with signage

Start Up

1. Begin operations mid-week to avoid anticipated confusion on a busy day
2. Parking Enforcement personnel will be on-site and visible near pay stations to assist users
3. Start up period will continue through two full weekends
 - a. All Parking Enforcement staff will be on duty for both weekends
 - b. Traffic and Parking Commissioners will be assist on both weekends and during the week if needed. PARKING ASSISTANCE vests will be provided

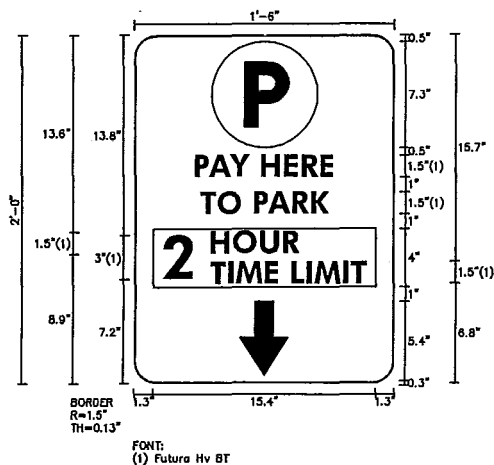
4. The PD paddy wagon will be parked along the Esplanade with a banner stating “PAY STATIONS NOW OPERATIONAL”

Post Start Up

1. Police Department and Public Works staff to meet to discuss issues
2. Signage to be reviewed and modified as needed

SIGN DETAIL

1:20



Dimensions are in inches.tenths
Letter locations are panel edge to lower left corner

SIGN NUMBER	Sign 1
WIDTH x HGHT.	1'-6" x 2'-0"
BORDER WIDTH	0.13"
CORNER RADIUS	1.5"
MOUNTING	Overhead
BACKGROUND	TYPE: Reflective
	COLOR: Blue
LEGEND/BORDER	TYPE: Reflective
	COLOR: White/White

SYMBOL	ROT	X	Y	WID	HT
Parking	0	5.3	16.2	7.3	7.3
Block	0	1.3	6.6	15.4	4
ARUP	180	7.3	0.2	3.4	5.4

LETTER POSITIONS (X)										LENGTH	SERIES/SIZE
P	A	Y		H	E	R	E				Futura Hv BT
4.2	5.2	6.7	8	8.8	10.4	11.6	12.9			9.6	1.5
T	O		P	A	R	K					Futura Hv BT
4.5	5.7	7.3	8.3	9.2	10.9	12.2				8.9	1.5
H	O	U	R								Futura Hv BT
5.3	6.8	8.7	10.3							6.1	1.5
2											Futura Hv BT
1.9										2.1	3
T	I	M	E		L	I	M	I	T		Futura Hv BT
5.3	6.5	7.1	9.1	9.9	10.9	11.9	12.5	14.5	15	10.8	1.5

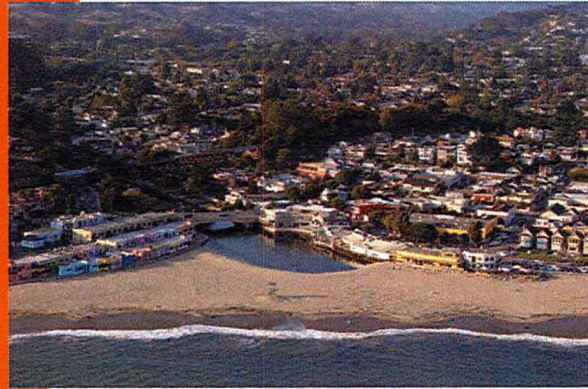
New Parking Pay Stations in Capitola Village

Providing new and better options for visitors and locals for parking in Capitola Village.

All traditional parking meters along the Esplanade, San Jose Avenue, and lower Monterey Avenue have been replaced with pay stations that improve convenience to all users.

What Else Should I Know?

Traditional parking meters are still being used on Capitola Avenue, upper Monterey Avenue, Cliff Drive, and in the Pacific Cove Parking Lot.



City of Capitola

Police Department
422 Capitola Avenue
Capitola CA 95010

Phone: 831-475-4242

Fax: 831-479-8881

www.capitola.ca.us

CAPITOLA VILLAGE PARKING

New Parking Payment Systems



No Change? No Problem!

Park and Pay

Park....

In any of the numbered parking spaces. Remember your parking space number and proceed to any pay station under a PAY HERE TO PARK sign, then follow the on screen directions.

Pay...

With coins, \$1 or \$2 bills, or Visa, Mastercard, American Express, or debit cards.

The pay stations do not provide change.

Rates

\$1.50 per hour

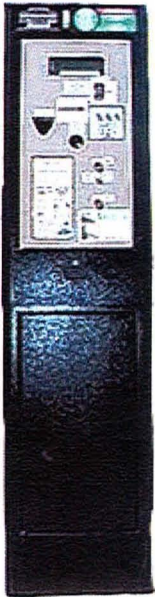
Hours of Operation

8 a.m. to 8 p.m.

seven days a week

Parking Time Limit

2 hours maximum



Look for these signs and pay at any Pay Station



Remember your space number

Frequently Asked Questions

When do the new pay stations begin working?

The pay stations are operational as of <date>.

Do I have to pay for a whole hour if I'm just making a short stop?

No. You can pay for any time you want using coins, \$1 or \$2 bills, or credit/debit cards. The pay stations cannot provide any change.

Do I have to put a receipt on my dashboard?

No, keep your receipt with you. The receipt will show your expiration time, parking space number, and an add time code. Use this code to add time to your parking space from any pay station in the Village up to the maximum stay of 2 hours.

Do I need to use the pay station closest to my car?

No, you can pay or add time for your parking space from any pay station in the Village.

How do I know if I should use a pay station or a traditional parking meter?

If your space is numbered with a four digit number, use a pay station. If not, use the parking meter in front of the space.

Village Parking Permit Holders

You don't need to do anything new to park in the permitted spaces. The Parking Enforcement Officers will continue to look for permits as part of their patrols.



Item #: **5.C.**

CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 22, 2011

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: SEPTEMBER 8, 2011

SUBJECT: STATE OF CALIFORNIA CDBG DISASTER RECOVERY INITIATIVE (DRI) GRANT FOR \$250,000 AND CONTRACTS FOR THE LOCAL HAZARD MITIGATION PLAN AND THE SAFETY ELEMENT OF THE GENERAL PLAN UPDATE WITH DESIGN, COMMUNITY & ENVIRONMENT, RBF CONSULTING, AND CAROLYN FLYNN

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

- 1) Adopt the proposed Resolution accepting the CDBG Disaster Recovery Initiative (DRI) Grant in the amount of \$250,000 and amending the FY 11/12 budget to increase CDBG revenue and expenditures in the amount \$250,000 for the "DRI Local Hazard Mitigation Plan & Safety Element" (Attachment 1), as submitted; and
 - 2) Authorize City Manager to execute a standard City contract with RBF Consulting for \$93,450 for development of the City's Local Hazard Mitigation Plan per the Scope of Work in Attachment 2; and
 - 3) Authorize City Manager to execute a contract amendment with Design, Community & Environment for \$68,500 for expanded portions of the Safety Element, including a review of relocating emergency responders, and sea level rise analysis, included in Attachment 3; and
 - 4) Authorize City Manager to execute a contract amendment with consultant Carolyn Flynn for \$37,500 to provide project management of the LHMP consultant team and the Safety Element consultant team, and all DRI grant administration and reporting, included in Attachment 4.
-

BACKGROUND

At its meeting on June 9, 2011, the City Council held a public hearing and approved submittal of an application for \$250,000 of funding from the 2008 Disaster Recovery Initiative (DRI) Fund for preparation of the City's Local Hazard Mitigation Plan and the Update of the Safety Element of the General Plan. Staff is pleased to report that the City has now received an official letter of award for the grant.

As noted in the City's grant application, with the March 2011 flood events in Capitola, the need for the City to develop and adopt a Local Hazard Mitigation Plan (LHMP) has become urgent. The LHMP planning process will assist the City in identifying potential flood and other natural hazards facing the City and preparing detailed mitigation and response plans. In addition, adoption of a LHMP is a requirement for the City to apply for several different federal disaster recovery grant programs. These grant programs, which are separate from the Disaster Declaration Funds from the state and federal government, have the potential to position the City to be competitive for significant future grant funds for flood and future disaster relief and recovery.

The new DRI grant will also fund the development of an expanded and comprehensive Safety Element of the General Plan Update, so that these two documents can be closely coordinated. The Safety Element addresses a wide variety of risks from natural and human-made hazards. With these two documents developed and adopted in a coordinated way, the City will be well positioned to meet future emergencies and take advantage of any funding.

DISCUSSION

The budget resolution in Attachment 1 will enable the City to receive and spend the grant funds. The work plans in Attachments 2, 3 and 4 outline what the grant will cover.

Below is a general outline of the attached contracts.

RBF – Local Hazard Mitigation Plan

RBF Consulting is the part of the city's current General Plan Update team, and successfully responded to an Request for Proposals for work on the LHMP. RBF and its sub-consultant Dewberry will be responsible for preparation of the LHMP and all implementing documents. Work will include a comprehensive local risk assessment, hazard profiles, review of critical facilities, hazard mapping, vulnerability assessment, and extensive community outreach meetings, newsletters and coordination with the LHMP. They will provide an assessment of the City's emergency response capabilities, and a review of the City Hall/Pacific Cove site and alternatives sites to make recommendations regarding moving the City's first responders out of the flood plain. RBF will prepare the state-required document, and work with the City to make revisions as needed for final approval. RBF's Scope of Work is included as Attachment 2.

DC&E – Expanded Safety Element & City Hall/Pacific Cove Special Study Area

DC&E is the City's lead consultant on the General Plan Update. Under this work plan, will prepare an expanded comprehensive update of current Safety Element, which is 30 years old. The Safety Element will analyze information about risks in the City due to natural and human-made hazards; address the protection of the community from unreasonable risks associated with the following topics: Geologic hazards, including earthquakes, ground failure, and subsidence and slope instability; Flooding; Wildland Fires; Hazardous materials and waste. This work will include coordination of the Safety Element with the LHMP; integrate Hazard Mitigation Planning into zoning, building codes and other long range planning documents.

The Scope of Work also includes a review of the fact that the City's significant municipal and first-responder facility sites, which are located in a flood plain. The approach will be to create a new City Hall/Pacific Cove Special Study Area as part of the General Plan Update. This will entail a series of community meetings to review the site. The process will identify hazards related to the site, strategies to move first-responders out of the flood plain, and the development of schematic re-use design alternatives for the current municipal site that aids in the City's recovery. The DC&E Scope of Work is included as Attachment 2.

Carolyn Flynn – Project Management and Grant Administration

Carolyn Flynn is a planning and grants consultant, and has provided excellent professional services for the City since 1997. She has written over a dozen successful major grants for the City, and managed many projects including housing, economic development, sustainability and General Plan Update grants. Ms. Flynn coordinated the DRI grant work plan for the LHMP and the Safety Element with City and CDBG staff.

She will provide Project Management of the consultant team for the Local Hazard Mitigation Plan and the Safety Element Update, and all of the complex implementing documents that are included with this grant-funded work. She will coordinate with the funding agency as well as the state submittal agency for the LHMP, and will provide all DRI grant administration, and quarterly and annual reporting. Carolyn Flynn's

Scope of Work for this contract amendment is included as Attachment 4.

FISCAL IMPACT

The budget amendment in Attachment 1 directs the City Manager to have the DRI grant recorded in the CDBG grants budget in the amount of \$250,000. The contracts in Attachments 2, 3, and 4 will be funded by the CDBG Disaster Recovery Initiative grant, which requires no matching funds. There is no impact on the General Fund or the General Plan Fund.

ATTACHMENTS

- 1) Draft Resolution
- 2) RBF Scope of Work
- 3) DC&E Contract Amendment and Scope of Work
- 4) Carolyn Flynn Contract Amendment and Scope of Work

Report Prepared By: Derek Johnson

Approved by: Derek Johnson
Community Development Director

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

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
ACCEPTING CDBG DISASTER RECOVERY INITIATIVE (DRI) GRANT
IN THE AMOUNT OF \$250,000, AND AMENDING THE FY 11/12 BUDGET TO INCREASE
CDBG REVENUE AND EXPENDITURES IN THE AMOUNT \$250,000 FOR THE
DRI LOCAL HAZARD MITIGATION PLAN AND SAFETY ELEMENT UPDATE**

WHEREAS, the City of Capitola is currently pursuing all possible sources of planning and emergency assistance to mitigate the impact of flood and other hazards; and

WHEREAS, on June 9, 2011, the City approved submittal of an application for \$250,000 from the California Department of Housing and Community Development CDBG Disaster Recovery Initiative (DRI) Fund; and

WHEREAS, the City has recently been awarded the \$250,000 DRI planning grant to fund the development of the City’s first Local Hazard Mitigation Plan (LHMP) and the Update of the Safety Element of the General Plan and implement documents.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the City Council of the City of Capitola accepts the CDBG Disaster Recovery Initiative (DRI) Grant in the amount of \$250,000; and

BE IT FURTHER RESOLVED that the City Manager, as Acting Finance Director, is directed to record or have recorded the above activities and associated budget amendments into the City’s accounting records in accordance with appropriate accounting principles, including:

Increase CDBG Revenue by \$250,000

Increase CDBG Contract Services Expenditures by \$250,000 for the Local Hazard Mitigation Plan (LHMP) in the amount of \$150,000 and the Safety Element Update in the amount of \$100,000

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 22th day of September, 2011, by the following vote:

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

Dennis R. Norton, Mayor

ATTEST:

_____, MMC
Pamela Greeninger, City Clerk

Scope of Services

RBF Consulting

Local Hazard Mitigation Plan

RBF Consulting, and subconsultant Dewberry, will work closely with the city-formed Hazard Mitigation Planning Team (LHMP Team) throughout the project and take a lead role in the coordination and facilitation of public outreach and coordination with local jurisdictions. The RBF Team will prepare the LHMP consistent with FEMA requirements which will enable the city to apply for and/or receive project grants under the following hazard mitigation assistance programs:

- Hazard Mitigation Grant Program (HMGP)
- Pre-Disaster Mitigation (PDM)
- Flood Mitigation Assistance (FMA)
- Severe Repetitive Loss (SRL)

Task 1 - Project Initiation

Kick Off Meeting (LHMP Team Meeting #1)

The RBF Team will facilitate a kickoff meeting with city staff upon receipt of DRI grant funding for the project. This meeting will focus on the project scope of work and corresponding budget, schedule for completion of milestone tasks, scheduling of project meetings, and development of Plan goals and mitigation priorities. In addition, the RBF Team will conduct a facilitated discussion with the LHMP Team regarding the potential hazards of concern and prioritize these hazards, which is the first step in preparing the Risk Assessment phase identified below. The Hazard Prioritization exercise will rank each hazard based on the probability of occurrence, area potentially affected, and significance of primary and secondary impacts. As a result of this exercise each hazard will have a numeric score, which assists in prioritization process.

Background Review and Research

The RBF Team will review the draft Santa Cruz County Hazard Mitigation Plan as well as other relevant documents, including the recently completed information as part of the General Plan update. Additional research will be conducted to summarize updated capabilities as outlined in available planning documents (general plan, capital improvements plan, emergency operations plan, etc). This information typically includes: past or current projects associated with hazards reduction within the city, current hazard related policies or ordinances in effect, historical information regarding disaster events that have occurred within the city or affected the city information pertaining to critical facilities, and other relevant information that may be required for incorporation into the document.

Upon completion of this review, the RBF Team will provide a draft plan outline along with summaries of the plan goals and mitigation priorities, and summaries of the location and extent of the hazards identified during LHMP Meeting #1.

Capabilities Assessment

The RBF Team will perform a capabilities assessment of the City's current services. This task will include a review of City services, current capacity/ deficiencies, and identify the staffing levels and assets that are available to the City for various functions including the City's ability to identify, plan, construct, and maintain projects as well as emergency management functions. As part of this task the team will provide a summary of existing City capabilities that will assist in prioritizing resources to devote to future mitigation projects.

Task 2 - Risk Assessment

The purpose of this Task is to provide a basis for hazard mitigation planning and will include the following tasks:

Hazard Profiles

Based on the results of LHMP Team meeting #1, the RBF Team will profile the natural hazards that will be included in the plan. These profiles will provide a general description of the hazard, the location and extent of the hazard, past occurrences within the City, and a probability assessment of future occurrences.

Typical natural hazards categories, consistent with the State Hazard Mitigation Plan include, but are not limited to:

- Flood-Related Hazards (river flooding, coastal flooding/tsunami/sea level rise, erosion, dam failures as the result of coastal storms, winter storms and hurricanes) that include, at a minimum, flood hazard areas as defined by FEMA in the Flood Insurance Rate Maps (FIRMs) for the jurisdiction as well as local historical data.
- Weather-Related Hazards (hurricanes, coastal storms, winter storms, tornadoes) based on information provided by the National Weather Service and/or State Hazard Mitigation Plan.
- Fire-Related Hazards (drought, wildfires) based on local historical data, the National Weather Service, State Hazard Mitigation Plan, and/or other applicable plans/sources.
- Geologic Hazards (earthquakes, landslides, sink holes) based on local historical information, State Hazard Mitigation Plan, and/or other applicable plans/sources.
- Other Hazards not listed above as determined by local history and experience
Consideration may also be given to man-made hazards (i.e. chemical spills and/or fires).

Critical Facilities

As part of this Task, the RBF Team will work with the LHMP Team in identifying those critical facilities that will be included within the plan. During this process an inventory of these facilities will be developed, which may include:

- a) Emergency operations center, police/fire stations
- b) Hospitals and emergency shelters
- c) Water and wastewater treatment infrastructure (plants, pumps, reservoirs, etc...)
- d) Power generation, transmission, and delivery facilities.
- e) Special population centers, such as day-care facilities, nursing homes/elderly housing, correctional facilities
- f) Hazardous material facilities
- g) Evacuation routes

The creation of this inventory is a critical component that will be used in conjunction with the Hazard Profiles as part of the vulnerability assessment component of the plan.

Hazard Mapping

Using existing GIS data sources (obtained from the city of Capitola, Santa Cruz County, State of California, and applicable Federal agencies), the RBF Team will develop base mapping of the various hazards located within the City and vicinity. In conjunction with mapping, the RBF Team will develop a comprehensive inventory of the following items relative to the hazard areas:

- i) All repetitive flood loss and substantial damage structures, as defined by FEMA, if applicable.
- ii) Maps that depict the location of structures, land use, and population.
- iii) Structures will be delineated by use (e.g. residential, commercial, industrial, institutional, other)

Vulnerability Assessment

Based on the above information, the RBF Team will develop a vulnerability assessment that identifies the City's vulnerability to the specific hazards identified in the plan. This vulnerability assessment, if possible, will include:

- Types and numbers of buildings, infrastructure, and critical facilities located in the identified hazard areas.
- Existing multiple hazard protection measures within the jurisdiction, including protective measures under the National Flood Insurance Program (NFIP).
- A description of each measure and the method of enforcement and/or the point of contact responsible for implementation of each measure.
- Historical performance of each measure and a description of improvements or changes needed.
- General description of land uses and development trends to incorporate future land use decisions.

HazUS Loss Estimate

In support of the Vulnerability Assessment, the RBF Team will incorporate the following HazUS loss estimates for the city:

- **Earthquake:** HazUS loss estimates for three earthquake scenarios (San Andreas, Zayante, and Palo Colorado) using readily available data to report loss estimates specific to the city. The RBF Team will obtain the HazUS (HPR) files from these scenarios enabling us to export GIS files and query the city data. The result will be a tally of loss estimates specific to the city for integration into the local hazard mitigation plan update. These will include fire, police, emergency operations center, school districts, hospitals, and general Building Stock loss estimations.
- **Flood:** The RBF Team will run a 100 year flood scenario (utilizing HazUS, if data is available). This scenario incorporates the most recent DFIRM data. The RBF Team will evaluate the results of the scenario to present a tally of potential loss estimates specific to the city for integration in to the local hazard mitigation plan update.
- **Tsunami:** A tsunami scenario will be developed using the most recent Tsunami data prepared by Cal EMA and/ or other available sources (NOAA, USGS). The RBF Team will prepare this scenario with the most recent inundation mapping and research to produce city potential loss estimates.

LHM Team Meeting #2

Upon completion of the Capabilities Assessment, Hazard Profiles, Critical Facilities Inventory, and Hazards Mapping, the RBF Team will submit draft versions of these sections to the LHMP Team for review. Upon completion of that review, the RBF Team will meet with the LHMP Team and discuss the data and information generated as well as any Team comments and input. As part of this meeting, the RBF Team will also provide draft materials for the first LHMP community outreach meeting for LHMP Team review.

Newsletter Article #1

RBF will prepare a draft and final text and graphics for an article to be published in the city's "Currents" newsletter. The article will be written to inform the community about the LHMP planning process, critical issues that are being addressed, and to invite them to the first of two community outreach meetings.

LHMP Community Outreach Meeting #1

The RBF Team will coordinate and facilitate the first of two LHMP community outreach meetings. This meeting is envisioned to be divided into two parts. The first hour will be an open-house format with a series of "stations" for participants to learn about the LHMP process and findings from the Risk Assessment phase identified above. RBF will prepare a number of maps and other graphic materials to facilitate communication and understanding. The second half of the meeting will involve a group discussion to record community comments. It is anticipated that the discussion will focus on possible relocation of essential public services (fire, police, city hall, critical infrastructure, etc), potential impacts to Capitola Village, and general city-wide hazards.

Mitigation Strategies

The RBF Team will work closely with the LHM Team and the community in developing local mitigation strategies specific to Capitola's exposure and impacts for each identified natural hazard. The strategy will include a list of mitigation goal statements that focus on reducing the risks from identified natural hazard. We will also include a section that identifies and analyzes a comprehensive range of specific mitigation actions and projects being considered to reduce the effects of each hazard, with particular emphasis on new and existing buildings and infrastructure. This section will include a list of prioritized hazard mitigation projects that best meet the communities' needs for multiple hazard damage reduction.

These projects may be non-structural (e.g.: planning, regulatory measures, property acquisition, retrofitting, elevation) or structural (e.g.: seawalls, dams, dikes) solutions. At a minimum, this list of prioritized projects will be based on a process that results in identification of cost effective hazard mitigation projects with public input, including:

- An analysis of proposed mitigation projects focused on several key areas, including but not limited to: economic (including benefits and cost), engineering, technical, legal, environmental, social, and political feasibility. Selected options will best fit the community's needs and meet most or all aspects of the feasibility analysis.
- Coordination with relevant Federal and State agencies for input and technical assistance.

Plan Maintenance

Section 201.6 (c)(4) of 44 CFR requires a formal plan maintenance process to ensure that the mitigation plan remains an active and relevant document. The plan maintenance process includes a method and schedule for monitoring, evaluating, and updating the plan at least every five (5) years. This also includes an explanation of how local governments intend to incorporate their mitigation strategies into existing planning mechanisms, such as general plans, capital improvement plans, and zoning and building codes. This section also requires that there be continued public participation throughout the plan maintenance process.

The RBF Team will prepare the LHMP consistent with Section 201.6 (c)(4) in a manner that is forward-thinking and emphasizes future plan maintenance. It will include the following sub-sections:

- Monitoring, Evaluating, and Updating the Plan
- Incorporation into Existing Planning Mechanisms
- Continued Public Involvement

LHM Team Meeting #3

Upon completion of the remaining components of the Risk Assessment Task, the RBF Team will conduct a meeting with the LHMP Team. This meeting will focus on the vulnerability assessment, HazUS Loss Estimates, Mitigation Strategies, and Plan Maintenance components of the document. Upon receipt of City input, the RBF Team will begin compilation of the Administrative Draft LHMP for City review.

Task 3 - LHM Plan Preparation

1st Administrative Draft Local Hazard Mitigation Plan

Preparation of the Administrative Draft LHMP will occur in conjunction with the Hazard Mitigation Planning Process outlined above. Portions of the document will be prepared and discussed as part of Hazard Mitigation Planning Team meetings. Upon completion of these meetings a complete Administrative Draft document will be provided to the city for initial review. The following are anticipated sections of the plan, in compliance with the FEMA Crosswalk and LHMP Guidance:

1. Introduction
2. Official Record of Adoption
3. Planning Process
4. Community Description/Setting
5. Risk Assessment
6. Mitigation Strategy
7. Plan Maintenance

LHM Team Meeting #4

The RBF Team will meet with the LHM Team to review the 1st Administrative Draft LHMP and receive written and oral comments.

2nd Administrative Draft Hazard Mitigation Plan

Upon completion of city Staff review of the Administrative Draft LHMP, the RBF Team will perform the following tasks in preparation of the Draft LHMP:

Review City Comments and Prepare 2nd Administrative Draft Document

The RBF Team will review one consolidated set of comments on the 1st Administrative Draft LHMP and make necessary revisions to the document.

Prepare FEMA “Crosswalk”

As required by 44 CFR 201.6(d), LHMPs must be submitted to the State Hazard Mitigation Officer for initial review and coordination, with the State then forwarding the plan to FEMA for formal review and approval. FEMA reviewers document their evaluation of the plan using the Local Mitigation Plan Review Crosswalk. LHMPs are approved when they receive a “Satisfactory” for all requirements.

RBF will prepare a draft Capitola LHMP Review Crosswalk based on the *Local Multi-Hazard Mitigation Planning Guidance*, published by FEMA in June 2008. For each “Element” in the checklist, RBF will identify it’s location in the plan that will be used for reference by CalEMA and FEMA as part of their review of the document.

Draft Local Hazard Mitigation Plan

Based on oral and written comments received on the 2nd Admin. Draft LHMP, the RBF Team will prepare the public review Draft LHMP. Both the Draft LHMP and LHMP Plan Review Crosswalk will be provided to the city for transmittal to CA Emergency Management Agency (CalEMA).

Newsletter Article #2

RBF will prepare a draft and final text and graphics for a second article to be published in the city's "Currents" newsletter. The article will be written to inform the community about the public review Draft LHMP that will be available, and to invite them to the second community outreach meeting.

Community Outreach Meeting #2

Concurrent with agency review, the RBF Team will organize and facilitate the second of two community outreach meetings. This meeting will build on the first community meetings by validating that the issues raised by the community have been addressed and provide a forum for comment on the Draft LHMP.

Agency Response to Comments on Draft LHMP

The RBF Team, in coordination with city staff, will work CalEMA and FEMA to respond to comments they raise on the Draft LHMP. It is anticipated that two to three conference calls will be required to resolve outstanding issues. If necessary, we will prepare a revised Draft LHMP with track changes shown and provide to CalEMA and FEMA for their subsequent review.

Task 4 - Plan Adoption

Public Hearings

The RBF Team will support city staff and the LHMP Team as part of presentations the Planning Commission (PC) and City Council (CC) hearings. This assumes a support role to city staff, which includes assistance in PowerPoint slide preparation, graphics preparation, and the attendance and participation at these meetings. We envision that one PC and one CC meeting will be required.

Final Local Hazard Mitigation Plan

Following plan approval by CalEMA and FEMA, the RBF Team will prepare the Final LHMP. This document will incorporate revisions as provided by the city based on comments received by the city as received as part of the community outreach meeting #2 and the public hearings.

Task 5 - Project Management and Coordination

During the LHMP Update process it will be important to communicate regularly with city staff. As part of the coordination and management of the project, it is anticipated that conference calls will be necessary to discuss data needs, analysis results, pertinent issues, and/or scheduling.

Pac Cove/City Hall Special Study Assistance

RBF will provide a supporting role to DC&E as part of their work in preparing a general plan special study area (SSA) analysis for the Pacific Cove / City Hall site. This work will include assistance in site planning (building on previous RBF studies) and project review as it pertains to hazard-related issues.

Project Schedule

The following approximately 14 month schedule is proposed for the project:

<u>Task</u>	<u>Completion Date</u>
LHMP Team Meeting #1	Late September 2011
Research and Investigation/ Capabilities Assessment	Late October 2011
Preparation of Risk Assessment	November thru December 2011
LHMP Team Meeting #2	December 2011
Community Outreach Meeting #1	December 2011
Completion of Risk Assessment	January 2012
LHMP Team Meeting #3	Late January 2012
Administrative Draft LHMP	February 2012
LHMP Team Meeting #4	March 2012
Public Review Draft LHMP	March 2012
Community Outreach Meeting #2	March 2012
Final Draft LHMP to CalEMA / FEMA	April 2012
CalEMA / FEMA Comments to city	October 2012
Public Hearings & Adoption	November 2012
Preparation of Final LHMP	November 2012

Project Assumptions

RBF has prepared the proposed Scope of Work, Fee Estimate, and Schedule based on the following assumptions:

1. No additional technical studies will be required apart from those as identified and provided by the Client. This scope of work assumes that a peer review of those reports is not necessary.
2. In performing its services hereunder, RBF has or will receive information prepared or compiled by others, the accuracy and completeness of which RBF is entitled to rely upon without independent evaluation or verification.
3. The cost estimate includes all meetings that are identified in this scope of work. Additional meetings will be billed on a time and materials basis.
4. All technical material, maps, project plans, GIS data, etc. will be provided to RBF at or before the project kickoff meeting and that no further modification to the data will be required.
5. All products will be submitted to the Client in electronic (PDF) format on a CD (and source files if requested), except for printed copies as identified in this scope of work.
6. Client staff will act as a clearinghouse for comments on all administrative draft documents and will provide RBF with a single, internally reconciled set of comments for each submitted draft document.
7. There will be a single round of review and revision to each Administrative Draft product. If Client staff feels that a second Administrative Draft is needed, a contract amendment allowing additional work may be necessary, depending on the circumstances associated with the additional changes.
8. Revisions to the Screencheck Draft will focus on typographical errors, formatting issues, and other minor edits. Such revisions will not include substantive content changes.
9. The Client will develop the mailing list and be responsible for distribution of all public notices. The Client will also be responsible for the publication of all public notices.
10. The budget is based on completion of work within an agreed upon schedule. If substantial delay occurs, an amendment of the budget will be warranted to accommodate additional project management time and other costs. Substantial delay is normally defined as 90 days or more.
11. This project includes an allowance for printing as shown in the attached budget. This is an allowance only, based on the numbers of products and copies shown in this scope of work. If this allowance is exceeded, additional printing costs will be billed at RBF's actual cost.

12. Client staff will be responsible for meeting logistics, including schedule coordination, public outreach, document production, printing notices, mailing costs, room reservations, room set-up and take-down, and refreshments.
13. The Client will be responsible for identifying and communicating with all stakeholders including on-going scheduling and coordination and distribution of all materials.
14. Client staff will coordinate/schedule all internal department meetings.
15. Project schedule assumes timely review by Client staff (20 working days) for all product deliverables.
16. RBF Consulting retains the right to transfer budget allocations between tasks to support completion of the work products, as needed, as long as the total budget is not exceeded. Shifts in task budget allocation will be at the discretion of RBF's Project Manager.

**City of Capitola LHMP
Project Budget**

TASKS

Task 1 - Project Initiation		\$8,230
	LHMP Team Meeting #1 (Kick Off Meeting)	
	Background Review and Research	
	Capabilities Assessment	
Task 2 - Risk Assessment		\$33,955
	Hazard Profiles	
	Critical Facilities	
	Hazard Mapping	
	Vulnerability Assessment	
	HazUS Loss Estimate	
	LHMP Team Meeting #2	
	Newsletter Article #1	
	LHMP Community Outreach Meeting #1	
	Mitigation Strategies	
	Plan Maintenance	
	LHMP Team Meeting #3	
Task 3 - LHM Plan Preparation		\$26,635
	1st Admin. Draft LHMP	
	LHMP Team Meeting #4	
	2nd Admin Draft LHMP	
	Public Review Draft LHMP	
	Newsletter Article #2	
	Community Outreach Meeting #2	
	Agency Response to Comments on DLHMP	
Task 4 - Plan Adoption		\$4,730
	Public Hearings	
	Final LHMP	
Task 5 - Project Management & Coordination		\$15,450
	On-going Management & Coordination	
	Pac Cove/City Hall Special Study Assistance	
Direct Expenses		\$3,500
	Reproduction	
	Miscellaneous Expenses	

PROJECT TOTAL \$92,500

1st AMENDMENT TO THE
PROFESSIONAL SERVICES AGREEMENT

between

CITY OF CAPITOLA AND DESIGN, COMMUNITY & ENVIRONMENT

The City of Capitola and Design, Community & Environment hereby agree to the following Amendment to the Contract dated November 11, 2010:

- 1) Add to Section 1, Scope of Services, "The services to be performed under this Agreement will also include CITY HALL/PACIFIC COVE SPECIAL STUDY AREA PLAN and SEA LEVEL RISE ANALYSIS, as further detailed in Appendix One; and
- 2) Amend Appendix One to include the attached Scope of Services; and
- 3) Amend Appendix Two to include the following additional tasks:
 - Task 3: City Hall/Pacific Cove Special Study Area Plan: \$35,000
 - Task 4: Sea Level Rise Analysis: \$20,000
 - Task 5: LCP Coastal Commission Adoption: \$10,000
 - Task 6: Project Grant Management: \$3,500

All other terms and conditions of the Professional Services Agreement remain in full force and effect.

CONTRACTOR: Design, Community & Environment

_____ Date: _____
 By: David Early, President

CITY OF CAPITOLA

_____ Date: _____
 By: Benjamin Goldstein, City Manager

APPROVED AS TO FORM:

_____ Date: _____
 John G. Barisone, City Attorney

Additional Scope of Services for Design, Community & Environment
Appendix One: Grant-Funded Tasks for the General Plan Update

TASK 3: CITY HALL/PACIFIC COVE SPECIAL STUDY AREA PLAN (\$35,000)

The DC&E team will conduct a special study of the six-acre City Hall/Pacific Cove site. These facilities are currently at risk from flood-related hazards due to their location within the flood plain. The purpose of this study is to identify feasible locations for municipal facilities that would move first responders (Police Department, Fire Department, City staff) out of the flood plain. The study will identify possible alternative locations for municipal facilities at the City Hall/Pacific Cove municipal site, as well as alternative sites within Capitola. The study will also identify potential redevelopment options for the City Hall/Pacific Cove site on the portions of the site that are not appropriate for municipal or first responder facilities. Such redevelopment could provide funding for new first responder municipal facilities.

1. Review Prior Studies

The DC&E team will review key background information related to the City Hall/Pacific Cove site, including the 2008 study of redevelopment capacity on the site, and the 2010 parking structure study for the site. Our work on this special study area will build from this prior work.

2. Stakeholder Work Session

The DC&E team will conduct a series of two work sessions on a single day with key stakeholders in the City Hall/Pacific Cove site. The first work session will be held with City staff, including staff from the City Manager's office, the Community Development Department, the Police Department, and the Fire Department. The focus of this work session will be to understand the operational requirements related to the relocation of municipal functions.

The second work session will be held with other key stakeholders, including area residents, property owners, and businesses that would be most affected by the relocation of municipal functions and the redevelopment of the existing City Hall/Pacific Cove site. Representatives from the Village Business Improvement Area and the Village Residents Association will participate in this work session.

Following the stakeholder work session, the DC&E team and City staff will discuss input received, relocation options, and a general summary of on-site and off-site alternatives for first responder facilities and alternatives uses for the City Hall site.

3. Municipal Service Relocation Alternatives

The DC&E Team will include an experienced emergency response planning design firm, which will review the entire 6-acre City Hall/Pacific Cove site and give recommendations on feasible locations for relocating municipal services at the site, given technical requirements for ingress and egress, flood plain, emergency response requirements, etc. The emergency responder design firm will also provide an analysis of the suitability of other alternative sites that have been identified outside City Hall/PacificCove.

Based upon input received from the stakeholder work sessions and the emergency services design firm, the DC&E team will identify alternative locations for the Police Department, Fire Department, and City Hall. We will prepare a memorandum that identifies potential sites for relocation of munisicipal facilities, both on- and off-site,and describes the advantages and disadvantages of these options.

4. Redevelopment Alternatives

The DC&E team will prepare redevelopment alternatives for the City Hall/Pacific Cove site, assuming that existing municipal facilities will be relocated in some way, either at the existing site or to a different location in the city. We will prepare up to three alternative schematic diagrams for the 6-acre site. These alternatives will reflect an analysis of constraints on the site, including hazards-related constraints. One or more of the alternatives will include a new parking structure. Information on

square footage, number of dwelling units, and parking will be developed for each alternative. These alternatives will be presented to the public for review and comment at the community workshop described below.

5. Community Workshop

The DC&E team will host a community workshop to receive input on the municipal services relocation alternatives and the alternative schematic diagrams for redevelopment of the City Hall/Pacific Cove site. The workshop will begin with an introductory presentation, followed by small group discussions. The small groups will work together to identify their “preferred alternative” for relocation and redevelopment. GPAC members will assist with the facilitation of these discussions. Following the small group discussions each group will report back to all participants the results of their discussion.

6. GPAC Meeting #5

The DC&E team will facilitate a GPAC meeting focusing on the City Hall/Pacific Cove site. At this meeting the GPAC will review feedback received at the community workshop and provide input on preferred relocation options and alternatives for redevelopment of the site. This input will help guide the preparation of a summary memorandum, described below.

7. Summary Memorandum

The DC&E team will prepare a summary memorandum for the City Hall/Pacific Hall site. This memorandum will provide recommendations for the relocation of the Police Department, Fire Department, and City Hall to areas with reduced exposure to flooding hazards. The memorandum will also present a preferred alternative for the redevelopment of the City Hall/Pacific Cove site. This preferred alternative will be shown in a conceptual illustration with accompanying policies and design standards and guidelines. The contents of this memorandum will ultimately be incorporated into the updated General Plan.

TASK 4: SEA LEVEL RISE ANALYSIS (\$20,000)

Philip Williams & Associates (PWA) will prepare a detailed analysis of coastal hazards in Capitola associated with projected sea-level rise. This analysis will utilize detailed data sets which will provide increased precision relating to flooding and coastal erosion hazards. This analysis will be used to help guide preparation of design concepts for the proposed Capitola Hotel on the Esplanade. The analysis will also be incorporated into the Local Coastal Plan (LCP), General Plan, and EIR.

TASK 5: LCP - COASTAL COMMISSION ADOPTION \$10,000

California Land Planning (CLP) will assist Capitola with the review and adoption of the LCP by the Coastal Commission. CLP will attend meetings with Coastal Commission staff to review draft LCP materials and to discuss issues of concern to the Coastal Commission. Within the available budget, CLP will attend meetings of the Coastal Commission for review and adoption of the LCP.

TASK 6: PROJECT GRANT MANAGEMENT \$3,500

DC&E will work with City staff to establish invoicing protocols for the DRI grant-funded tasks. On a monthly basis DC&E will provide detailed invoicing information identifying specific work completed as part of these tasks.

ATTACHMENT 4

1st AMENDMENT TO THE
PROFESSIONAL SERVICES AGREEMENT
between
CITY OF CAPITOLA AND CAROLYN FLYNN

The City of Capitola and Carolyn Flynn hereby agree to the following Amendment to the Contract dated June 23, 2011:

- 1) Amend Appendix One to include the attached Scope of Services; and
- 2) Amend Appendix Two to include the following under "FY 2011-2012 costs of each portion of the project:"

<u>Project</u>	<u>Contract Amount</u>
Task 4: Local Hazard Mitigation Plan	\$15,000
Task 5: Safety Element Update	\$10,000
Task 6: DRI Grant Administration	\$12,500

All other terms and conditions of the Professional Services Agreement remain in full force and effect.

CONTRACTOR: Carolyn Flynn

Date: _____

By: Carolyn Flynn

CITY OF CAPITOLA

Date: _____

By: Benjamin Goldstein, City Manager

APPROVED AS TO FORM:

Date: _____

John G. Barisone, City Attorney

Additional Scope of Services for Carolyn Flynn

Professional Services Contract with the City of Capitola, APPENDIX ONE

Task 4: Local Hazard Mitigation Plan: (\$15,000)

Task 4 will include Project Management for development and approval of the Local Hazard Mitigation Plan (LHMP), including all required staff reports, resolutions, and public notices. Work will include providing coordination and point of contact for the LHMP consulting team of RBF and sub-consultants; coordination of the City's Team Meetings; editorial and technical review of the various documents associated with the LHMP; management of the LHMP grant budget and the consulting team, and guidance of the approval of the LHMP through the City Council and the state review agency.

Task 5: Safety Element Update: (\$10,000)

Task 5 will include coordination of the Safety Element Update and the complex implementing documents that are part of this grant and the associated contracts. Work will include Project Management of the Safety Element consulting team of DC&E and sub-consultants; preparation of background staff reports and resolutions; coordination of the City's Safety Element Team meetings; editorial and technical review of the consultant reports for the Safety Element and its implementing documents; management of the Safety Element DRI grant budget; assistance with submittal of the Safety Element and associated documents to review agencies.

Task 6: DRI Grant Administration: (\$12,500)

Task 6 will cover all DRI grant administration, and is covered by five percent of the grant set-aside for grant administration purposes. This task will include management and tracking of grant expenses and invoices for the LHMP and the Safety Element portions of the grant; preparation and submittal of grant funds requests; preparation of quarterly reports and annual reports; oversight of the DRI grant in the City's budget; ensuring that the City meets all grant reporting and submittal deadlines; submission of the final documents to CDBG, and successful close-out of the grant.

TIMELINE: This work will commence upon approval of the contract amendment, and will be completed by December 2013.



Item #: 5.D.

CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 22, 2011

FROM: CITY MANAGER'S DEPARTMENT
DATE: SEPTEMBER 15, 2011
SUBJECT: APPROVE CONTRACT WITH WILLIAM STATLER AS THE INTERIM FINANCE DIRECTOR
IN AN AMOUNT NOT TO EXCEED \$30,000

Recommended Action: By motion and roll call vote, that the City Council: 1) Approve the proposed Professional Services Agreement with William Statler as the Interim Finance Director in an amount not to exceed \$30,000, and 2) adopt the proposed Resolution Amending the FY2011-2012 General Fund Budget by transferring \$30,000 from the Finance Department Salary and Benefits Account to Finance Department Contract Services Account to fund the Interim Finance Director Contract.

BACKGROUND

When the City Council adopted the budget in June of this year, funding for the vacant Finance Director position was reduced from full time to 75% in order to achieve a savings. At that time it was determined that it would be at least three months from the time the budget was adopted to the actual hiring of a director thus the savings of 25%. Since that time staff has determined it would be in the best financial interest of the City to hire a consultant to act as an Interim finance Director. The need to hire an Interim Finance Director is primarily driven by a number of significant, high level finance projects which are due this fiscal year.

DISCUSSION

Staff began recruiting for a permanent Finance Director in July of this year. Several well qualified candidates applied, but due to recent projections of a reduction in revenues, staff is recommending hiring an Interim Finance Director as opposed to a permanent Director in order to achieve a savings of \$94,000 in FY11-12. In light of that, staff called the potential candidates asking if they would consider interviewing for an interim position. Staff interviewed several candidates and is recommending a contract with Mr. William Statler as the Interim Finance Director.

Mr. Statler recently retired after serving as the Director of Finance & Information Technology/City Treasurer for the City of San Luis Obispo for 22 years, prior to that he was the Finance Officer for the City of Simi Valley for 10 years. As a consultant, he has worked for the Cities of; Salinas, Camarillo, Grover Beach, Pismo Beach and Ceres and the Sacramento Metropolitan Fire District. Mr. Statler recently served on the Board of Directors for the League of California Cities, is a member of the California Committee on Municipal Accounting, member of the Board of Directors for CMSFO and also serves as a trainer for many professional organizations.

As the Interim Finance Director, Mr. Statler will assist the City by developing a cash management model, Pacific Cove Mobile Home Financing Plan, FY11-12 Mid-Year Financial Report, FY12-13 Budget and assist in the management of the Finance Department.

FISCAL IMPACT

The Finance Director position was funded at 75% which equates to \$124,000 for salary and benefits. The contract amount is for \$30,000 resulting in a savings of \$94,000.

ATTACHMENTS

1. Draft Budget Resolution
2. Interim Finance Director Scope of Services (To be delivered prior to the meeting)

Report Prepared By: Lisa G. Murphy
Administrative Services Manager

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

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
AMENDING THE FY2011-2012 GENERAL FUND BUDGET BY TRANSFERRING \$30,000
FROM THE FINANCE DEPARTMENT SALARY & BENEFITS ACCOUNT TO THE
FINANCE DEPARTMENT CONTRACT SERVICES ACCOUNT TO FUND THE
INTERIM FINANCE DIRECTOR CONTRACT**

WHEREAS, the City of Capitola funded a Finance Director position in the FY11-12 Budget at 75% of funding; and

WHEREAS, the City has determined that it is in its best financial interest to hire an Interim Finance Director in order to achieve a salary savings of \$94,000 in FY11-12; and

WHEREAS, the Interim Finance Director will be a consultant and be funded in contract services as opposed to salary and benefits thus resulting in the need for a budget amendment; and

WHEREAS, the Interim Finance Director will provide the following services; assist the City by developing a cash management model, develop a Pacific Cove Mobile Home Financing Plan, prepare the FY11-12 Mid-Year Financial Report, oversee the development of the FY12-13 Budget and assist in the management of the Finance Department.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Capitola that the FY2011-2012 General Fund Budget shall be amended to transfer \$30,000 from the Finance Department Salary & Benefits Account to the Finance Department Contract Services Account for the Interim Finance Director contract.

BE IT FURTHER RESOLVED that the Finance Director is directed to record these changes into the City's accounting records in accordance with appropriate accounting practices.

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 22nd day of September, 2011, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Dennis R. Norton, Mayor

ATTEST:

_____, MMC
Pamela Greeninger, City Clerk

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
AMENDING THE FY2011-2012 GENERAL FUND BUDGET BY TRANSFERRING \$25,000
FROM THE FINANCE DEPARTMENT SALARY & BENEFITS ACCOUNT TO THE
FINANCE DEPARTMENT CONTRACT SERVICES ACCOUNT TO FUND THE
INTERIM FINANCE DIRECTOR CONTRACT**

WHEREAS, the City of Capitola funded a Finance Director position in the FY11-12 Budget at 75% of funding; and

WHEREAS, the City has determined that it is in its best financial interest to hire an Interim Finance Director in order to achieve a salary savings of \$100,000 in FY11-12; and

WHEREAS, the Interim Finance Director will be a consultant and be funded in contract services as opposed to salary and benefits thus resulting in the need for a budget amendment; and

WHEREAS, the Interim Finance Director will provide the following services; assist the City by developing a cash management model, develop a Pacific Cove Mobile Home Financing Plan, prepare the FY11-12 Mid-Year Financial Report, oversee the development of the FY12-13 Budget and assist in the management of the Finance Department.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Capitola that the FY2011-2012 General Fund Budget shall be amended to transfer \$25,000 from the Finance Department Salary & Benefits Account to the Finance Department Contract Services Account for the Interim Finance Director contract.

BE IT FURTHER RESOLVED that the Finance Director is directed to record these changes into the City's accounting records in accordance with appropriate accounting practices.

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 22nd day of September, 2011, by the following vote:

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

Dennis R. Norton, Mayor

ATTEST:

_____, MMC
Pamela Greeninger, City Clerk

124 Cerro Romauldo Avenue
San Luis Obispo, CA 93405
805.544.5838 ■ Cell: 805.459.6326
bstatler@pacbell.net
www.bstatler.com

William C. Statler

Fiscal Policy ■ Financial Planning ■ Analysis ■ Training ■ Organizational Review

September 15, 2011

Jamie Goldstein, City Manager
City of Capitola
420 Capitola Avenue
Capitola, CA 95010
Delivered Via Email: jgoldstein@ci.capitola.ca.us



Proposal to the City of Capitola INTERIM FINANCE DIRECTOR SERVICES

This proposal is in response to your interest in contracting for interim Finance Director services. As we have discussed, in the longer-term, providing the ongoing policy advice, financial planning and operational oversight needed for effective management of the City's \$20 million in annual fiscal operations and \$33 million in assets will most likely require filling this position on a full-time basis. In the short term, however, keeping the Finance Director position vacant is a significant cost-saving measure in light of the financial challenges facing the City as it recovers from the worst recession since the Great Depression combined with the costs incurred in responding to flood repairs in March 2011.

Accordingly, in order to achieve cost savings in the short term while at the same time ensuring that critical financial management needs are met, it makes sense to approach the interim Finance Director position on a project basis to the maximum extent feasible. Under this strategy, the following sets forth the interim Financial Director services work program and related compensation.

WORK PROGRAM

Task 1: Cash Management Model

Work closely with the City Manager and Finance Staff to develop a cash management model that can be used to predict the City's cash position during the fiscal year in assessing whether external loans may be necessary, and as a tool to track budget performance during the fiscal year.

Deliverable: Excel (or equivalent) model that takes input from City finance software (New World) with minimal data manipulation to forecast cash position by quarter through fiscal 2011-12 and 2012-13. Consultation with the City Manager regarding status of fund balances, operating revenues and expenditures relationships, cash flow and availability, and financial prioritization of projects.

Due Date: November 1, 2011

Compensation: \$4,750

Task 2: Pacific Cove Financing Plan

Subject to a determination to close the Pacific Cove Mobile Home Park by the Council, develop a financing plan to obtain funding to pay required relocation benefits to affected residents and presentation of the plan to the Council. The plan will include options for long term debt, pay-as-you-go, as well as assess the feasibility and associated restrictions with obtaining grant funding.

Deliverable: Financing plan, staff report and power point presentation for Council consideration.

Deadline: 90 days from final Council consideration of Relocation Impact Report, anticipated to be February 22, 2012.

Compensation: \$5,250

Task 3. Financial Management

Work closely with the City Manager and Finance Staff regarding strategic fiscal decisions involving implementation of legal requirements or best practices.

Deliverable: Ongoing fiscal policy advice and financial system assessment, including:

- Assessment of financial polices, systems and procedures and recommended improvements as appropriate.
- Review of interim financial reporting practices and recommended improvements as appropriate.
- Fiscal advice to the City Manager and Department staff as requested.

Deadline: Ongoing, anticipated through June 2012

Compensation: In providing this service, I will be on-site two days per month, Thursday and Friday, corresponding to a Council meeting date. This will result in monthly costs of \$1,360, or \$13,600 for 2011-12 assuming my services begin with the September 22 Council meeting date and are required through June 2012. This is based on an hourly billing rate of \$85.00 per hour, which is comparable to the compensation, including salary and benefits, provided to the regular Finance Director position. In the event that this does not occur due to holidays or other reasons for cancellation, no hours will be billed for the month. On the other hand, this may be shifted to another two-days per month upon request by the City. All expenses for transportation and lodging are included in this "two-days per month" fee.

Task 4: City Budget

Work closely with the City Manager and Finance Staff in preparing the 2011-12 mid-year budget report to the Council; and oversee preparation of 2012-13 Budget, including assessment of prior year budgets, existing finance software, and recommend modifications to budget process, content and budget document to increase reliability and transparency while reducing workload associated with the budget preparation process.

Deliverable: Assistance with mid-year budget for 2011-12; goal-setting session, staff report and power point presentation; draft 2012-12 Budget.

Deadline: Mid-year budget report: January 31, 2012; Draft budget: April 27, 2012

Compensation: Given the challenges associated with budget preparation in this uncertain economic and fiscal environment as well as the ever-present potential for added State budget takeaways, and the internal and community issues that may arise as a result, it is not possible to provide a “not to exceed cost” for this service. To the extent feasible, hours for this service will be coordinated with Task 3. However, hours above that amount will be billed on a “time and materials” basis at \$85.00 per hour, plus any direct transportation or lodging expenses incurred. For budgeting purposes, 10 hours per month beginning in November 2011 devoted to the budget review and preparation process would cost about \$6,000 through June 2012.

OPTIONAL SERVICE

Long-Term Fiscal Forecast

Like virtually all other local governments in California, the City of Capitola has been faced with major fiscal challenges over the past several years in the wake of the worst recession since the Great Depression. And like most other local governments, it has largely addressed these challenges on a year-by-year basis through the budget process.

In better positioning itself for the future, the City should strongly consider preparing a five-year General Fund fiscal forecast and follow-up financial plan based on the forecast results. Along with assessing the longer-term impacts of short-term budget decisions, the forecast will help the City better manage long-term fiscal sustainability. For those agencies that have prepared longer-term forecasts and follow-on financial plans, this did not magically make their fiscal problems disappear: they still had tough decisions to make. However, it allowed them to better assess their longer term outlook, more closely define the size and duration of the fiscal challenges facing them, and then make better decisions accordingly for both the short and long run.

I have prepared a number of five-year fiscal forecasts for the City of San Luis Obispo as well as for the Cities of Salinas, Camarillo and Pismo Beach. Additionally, I have done extensive training on long-term financial planning for the California Society of Municipal Finance Officers and the Government Finance Officers Association of the United States and Canada.

Preparing a five-year General Fund fiscal forecast is outside the scope of this proposal. However, in preparing for the upcoming 2012-13 Budget, the City would benefit from taking a longer term look at its fiscal future at a very early stage in the process (for example, by December 2011). The forecast would not be the budget document – but it would provide an early assessment of how difficult balancing the budget is likely to be. It will also provide a framework in assessing early in the process if further budget-balancing reductions are required.

If the City is interested in pursuing this further at some point, I would be delighted to submit a proposal for your consideration.

CONTRACT TERMS

Term. I will commit to providing the scope of services outlined in this proposal through June 2012. However, the City is free to terminate services at any time at its sole discretion with 30 days notice.

Independent Contractor. In order to facilitate the “project” approach set forth in this proposal, I propose serving the City as an independent contractor rather than as a City employee. This approach allows the City to better control costs on a “not exceed” deliverable basis; and on a case-by-case hourly basis where this makes the most sense. As an independent contractor, I have in place general liability, professional errors and omissions, automobile insurance coverage to \$1 million; and statutory workers compensation coverage. Fees for services delivered will be billed on a monthly basis; and payment will be expected within “net 30 days” thereafter. As an independent contractor, I will be free to accept work assignments from other agencies during the term of this contract, provided that they do not interfere with service performance under this contract.

QUALIFICATIONS

As set forth in the following Qualifications Summary, I have extensive experience in a broad range of municipal financial management practices, which have received state and national recognition for excellence in financial planning and reporting. I have also played key leadership roles in the profession, which included serving as a member of the Board of Directors of the League of California Cities, President of the League’s Fiscal Officer Department and President of the California Society of Municipal Finance Officers; and setting accounting and financial reporting standards as a member of the California Committee on Municipal Accounting.

Additionally, I have provided financial analyses and management advice for the following agencies:

- “Pro Bono” Transition Team: City of Bell
- Finance Division Organizational Review: Sacramento Metropolitan Fire District
- Five Year Fiscal Forecast: City of Salinas
- Five Year Fiscal Forecast: City of Camarillo
- Financial Department Organizational Review: City of Ceres
- Revenue Options Study: City of Pismo Beach
- Five Year Fiscal Forecast: City of Pismo Beach:
- Joint Solid Waste Rate Review of Proposed Rates from South County Sanitary Company: Cities of Arroyo Grande, Grover Beach, Pismo Beach and Oceano Community Services District
- Cost Allocation Plan: City of Port Hueneme
- Water and Sewer Rate Reviews: City of Grover Beach
- Cost Allocation Plan: City of Grover Beach
- Financial Condition Assessment: City of Grover Beach

In each case, I believe the contracting agencies were delighted with the high-quality results they received at a very reasonable cost. References from the City Managers and Finance Officers from each of these agencies are available upon request.

PROPOSAL COST SUMMARY

Task	Cost
Task 1: Cash Management Model	4,750
Task 2: Pacific Cove Financing Plan	5,250
Task 3: Financial Management	13,600
Task 4: City Budget (Estimate)	6,000
Total Estimated Cost	\$29,600

As noted above, the budget preparation assistance is an “order of magnitude” estimate assuming about 70 hours of assistance through June 2012. With this assumption, the proposed services will cost about \$29,000 for 2011-12. This will leave in place savings that are over two-thirds of the budgeted cost of the Finance Director for 2012-13 (about \$100,000).

Except as qualified below, this cost is inclusive of all expenses, including materials and travel-related costs. To the extent feasible, the work will be completed via email and teleconference. However, as set forth in Task 3, at least two days will be provided monthly for on-site services. All deliverables will be provided electronically: any “hard copy” reproduction costs will be the City’s responsibility.

Any services requested outside of the scope of services outlined above will be provided on a “time and materials” basis at the rate of \$85.00 per hour, plus any direct expenses for transportation to and from San Luis Obispo and overnight lodging.

SUMMARY

I am looking forward to this opportunity to serve the City of Capitola. Please call or email me if you have any questions concerning this proposal.

Sincerely,



William C. Statler

Fiscal Policy ■ Financial Planning ■ Analysis ■ Training ■ Organizational Review



QUALIFICATIONS SUMMARY

SENIOR MANAGEMENT EXPERIENCE

Bill Statler has over 30 years of senior municipal financial management experience, which included serving as the Director of Finance & Information Technology/City Treasurer for the City of San Luis Obispo for 22 years and as the Finance Officer for the City of Simi Valley for 10 years before that.

Under his leadership, the City of San Luis Obispo received national recognition for its financial planning and reporting systems, including:

- Award for Distinguished Budget Presentation from the Government Finance Officers Association of the United States and Canada (GFOA), with special recognition as an outstanding policy document, financial plan and communications device. *San Luis Obispo is one of only a handful of cities in the nation to receive this special recognition.*
- Awards for excellence in budgeting from the California Society of Municipal Finance Officers (CSMFO) in all four of its award budget categories: innovation, public communications, operating budgeting and capital budgeting. Again, *San Luis Obispo is among a handful of cities in the State to earn recognition in all four of these categories.*
- Awards for excellence in financial reporting from both the GFOA and CSMFO for the City's comprehensive annual financial reports.
- Recognition of the City's financial management policies as "best practices" by the National Advisory Council on State and Local Budgeting.

The financial strategies, policies and programs he developed and implemented resulted in strengthened community services and an aggressive program of infrastructure and facility improvements, while at the same time preserving the City's long-term fiscal health. This included taking a lead role in developing and presenting the community outreach and education program in preparation for a general purpose, ½-cent City sales tax measure, which was overwhelmingly adopted with 65% voter approval in November 2006.

FINANCIAL MANAGEMENT SERVICES FOR OTHER AGENCIES

- "Pro Bono" Transition Team: City of Bell
- Finance Division Organizational Review: Sacramento Metropolitan Fire District
- Five Year Fiscal Forecast: City of Salinas
- Five Year Fiscal Forecast: City of Camarillo
- Finance Department Organizational Review: City of Ceres (in collaboration with national consulting firm)
- Five Year Fiscal Forecast: City of Pismo Beach
- Revenue Options Study: City of Pismo Beach
- Water and Sewer Rate Reviews: City of Grover Beach
- Financial Condition Assessment: City of Grover Beach

- Cost Allocation Plan: City of Grover Beach
- Cost Allocation Plan: City of Port Hueneme
- Joint Solid Waste Rate Review of Proposed Rates from South County Sanitary Company: Cities of Arroyo Grande, Grover Beach, Pismo Beach and Oceano Community Services District

PROFESSIONAL LEADERSHIP

- Member, Board of Directors, League of California Cities (League): 2008 to 2010
- Member, California Committee on Municipal Accounting: 2007 to 2010
- Budget and Fiscal Policy Committee Member, Government Finance Officers Association of the United States and Canada (GFOA): 2005 to 2009
- President, League Fiscal Officers Department: 2002 and 2003
- President, California Society of Municipal Finance Officers (CSMFO): 2001
- Member, Board of Directors, CSMFO: 1997 to 2001
- Chair, CSMFO Task Force on “GASB 34” Implementation
- Fiscal Officers Representative on League Policy Committees: Community Services, Administrative Services and Environmental Quality: 1992 to 1998
- Chair, Vice-Chair and Senior Advisor for CSMFO Committees: Technology, Debt, Career Development, Professional and Technical Standards and Annual Seminar Committees: 1995 to 2010
- Member, League Proposition 218 Implementation Guide Task Force
- Chair, CSMFO Central Coast Chapter Chair: 1994 to 1996

TRAINER

- League of California Cities
- Institute for Local Government
- California Debt and Investment Advisory Commission
- Government Finance Officers Association of the United States and Canada
- California Society of Municipal Finance Officers
- Municipal Management Assistants of Southern California and Northern California
- Humboldt County
- California Association of Local Agency Formation Commissions

Topics included:

- Long-Term Financial Planning
- The Power of Fiscal Policies
- Fiscal Health Contingency Planning
- Financial Analysis and Reporting
- Effective Project Management
- Top-Ten Skills for Finance Officers
- Telling Your Fiscal Story: Tips on Making Effective Presentations

- Transparency in Financial Management: Meaningfully Community Involvement in the Budget Process
- Strategies for Downsizing Finance Departments in Tough Fiscal Times
- Financial Management for Non-Financial Managers
- Preparing for Successful Revenue Ballot Measures
- Providing Great Customer Service in Internal Service Organizations: The Strategic Edge
- Multi-Year Budgeting
- Integrating Goal-Setting and the Budget Process
- Debt Management
- Financial Management for Elected Officials

PUBLICATIONS

- *Guide to Local Government Finance in California*, Solano Press, Fall 2011 (Co-Author)
- *Managing Debt Capacity: Taking a Policy-Based Approach to Protecting Long-Term Fiscal Health*, Government Finance Review, August 2011
- *Fees in a Post-Proposition 218 World*, League of California Cities, City Attorney's Department Spring Conference, May 2010
- *Municipal Fiscal Health Contingency Planning*, Western City Magazine, November 2009
- *Understanding the Basics of County and City Revenue*, Institute for Local Government, 2008 (Contributor)
- *Financial Management for Elected Officials*, Institute for Local Government, 2007 (Contributor)
- *Getting the Most Out of Your City's Current Revenues: Sound Fiscal Policies Ensure Higher Cost Recovery for Cities*, Western City Magazine, November 2003
- *Local Government Revenue Diversification, Fiscal Balance/Fiscal Share and Sustainability*, Institute for Local Government, November 2002
- *Why Is GASB 34 Such a Big Deal?*, Western City Magazine, November 2000
- *Understanding Sales Tax Issues*, Western Cities Magazine, June 1997
- *Proposition 218 Implementation Guide*, League of California Cities, 1997 (Contributor)

HONORS AND AWARDS

- CSMFO Distinguished Service Award for Dedicated Service and Outstanding Contribution to the Municipal Finance Profession
- National Advisory Council on State and Local Government Budgeting: Recommended Best Practice (Fiscal Polices: User Fee Cost Recovery)
- GFOA Award for Distinguished Budget Presentation: Special Recognition as an Outstanding Policy Document, Financial Plan and Communications Device

- CSMFO Awards for Excellence in Operating Budget, Capital Improvement Plan, Budget Communication and Innovation in Budgeting
- GFOA Award of Achievement for Excellence in Financial Reporting
- CSMFO Certificate of Award for Outstanding Financial Reporting
- National Management Association Silver Knight Award for Leadership and Management Excellence
- American Institute of Planners Award for Innovation in Planning



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