

**CITY ATTORNEY'S IMPARTIAL ANALYSIS
MEASURE L**

Introduction.

This measure was placed on the ballot by an initiative petition signed by a legally sufficient number of registered voters in the City of Capitola. It proposes adding a Chapter to the Capitola Municipal Code concerning the proposed "Rail Trail" through the City of Capitola and Trestle across Soquel Creek in Capitola Village.

Background.

The Rail Corridor and Trestle are owned by the Santa Cruz County Regional Transportation Commission (RTC). In 2013, after a multi-year process with extensive public input, RTC adopted the Monterey Bay Sanctuary Scenic Trail Master Plan (Master Plan), establishing the proposed alignment for the Monterey Bay Sanctuary Scenic Trail Network, including the Coastal Rail Trail and associated spur trails. "Segment 11" of the Rail Trail would run along the rail right-of-way approximately 3.2 miles down the coast from Jade Street Park to State Park Drive, diverting onto surface streets through Capitola Village to bypass the Trestle. Although contemplated as part of a future project, the Master Plan does not include funding for building the Rail Trail across the Trestle due to cost and existing structural conditions. In 2015, the Capitola City Council adopted the Master Plan, which is contemplated by and consistent with several policies enumerated in Capitola's General Plan, adopted in 2014, the "Bicycle Transportation Plan," adopted in 2011 and Local Coastal Plan, adopted in 1981.

The Measure.

The stated purpose of the measure is to keep the proposed Rail Trail entirely within the existing Rail Corridor, including across the Trestle. It contains two operative provisions:

First, it directs the City to take "all steps necessary" to preserve and utilize the RTC-owned Rail Corridor and Trestle, for "any form of human powered transportation," such as walking, cycling, using a wheelchair, or skateboarding.

Second, it prohibits the expenditure of City any "funds or resources related to the construction, reconstruction, operation, maintenance, financing, marketing, or signage for a detour of the Trail onto Capitola streets or sidewalks."

The measure expressly does not amend or rescind the General Plan, Local Coastal Program or Zoning Code, but rather states that it "shall be construed and harmonized in a manner to strengthen and define such provisions."

The measure raises a number of legal concerns, including: First, whether it proposes a legislative act, or merely directs administrative or executive actions, which are generally not subject to initiative or referendum; Second, whether the Measure's terms are too vaguely defined and ambiguous to be enforceable; Third, whether its restrictions on expenditure of funds improperly interfere with the City Council's authority over the City's fiscal affairs. For these reasons the measure may be vulnerable to a legal challenge as to its validity.

The above statement is an impartial analysis of Measure L. If you desire a copy of the measure, please call the City Clerk at 831-475-7300 and a copy will be mailed at no cost to you.

/s/ Anthony Condotti, Capitola City Attorney