

City of Capitola

City Council Meeting Agenda

Thursday, October 26, 2023 – 6:00 PM



City Council Chambers
420 Capitola Avenue, Capitola, CA 95010

Mayor: Margaux Keiser
Vice Mayor: Kristen Brown
Council Members: Yvette Brooks, Joe Clarke, Alexander Pedersen

Closed Session – 5 PM

Closed Sessions are not open to the public and held only on specific topics allowed by State Law (noticed below). An announcement regarding the items to be discussed in Closed Session will be made in the City Hall Council Chambers prior to the Closed Session. Members of the public may, at this time, address the City Council on closed session items only. There will be a report of any final decisions in City Council Chambers during the Open Session Meeting.

- i. CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Gov't Code § 54956.8)
Property: Monterey Park, APN: 036-15-102
City Negotiator: Jamie Goldstein, City Manager
Negotiating Parties: Soquel Union Elementary School District
Under Negotiation: Transfer of Real Property

Regular Meeting of the Capitola City Council – 6 PM

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

1. Roll Call and Pledge of Allegiance

Council Members Yvette Brooks, Joe Clarke, Alexander Pedersen, Kristen Brown, and Mayor Margaux Keiser.

2. Additions and Deletions to the Agenda

3. Presentations

Presentations are limited to eight minutes.

4. Report on Closed Session

5. Additional Materials

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

[A.](#) Correspondence Received - Item 9A

6. Oral Communications by Members of the Public

Please review the Notice of Remote Access for instructions. Oral Communications allows time for members of the Public to address the City Council on any "Consent Item" on tonight's agenda, or on any topic within the jurisdiction of the City that is not on the "General Government/Public Hearings"

*section of the Agenda. Members of the public may speak for up to three minutes, unless otherwise specified by the Mayor. 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. A **maximum of 30 minutes** is set aside for Oral Communications.*

7. Staff / City Council Comments

Comments are limited to three minutes.

8. Consent Items

All items listed as “Consent Items” 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 City Council request specific items to be discussed for separate review. Items pulled for separate discussion will be considered following General Government. Note that all Ordinances which appear on the public agenda shall be determined to have been read by title and further reading waived.

A. City Council Meeting Minutes

Recommended Action: Approve minutes from the regular meeting on October 12, 2023.

B. Resolution Against Banning Materials

Recommended Action: Adopt a resolution against banning books and materials in the Santa Cruz Public Library system.

C. CalRecycle Grant Programs

Recommended Action: Adopt a resolution authorizing the application for grant funds from the California Department of Resources, Recycling, and Recovery (CalRecycle).

9. General Government / Public Hearings

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

A. Coastal Rail Trail Segments 10 and 11

Recommended Action: Provide direction to staff on a comment letter on the Environmental Impact Report and Consolidated Coastal Permit Request for the Coastal Rail Trail Segments 10 and 11.

B. Chief’s Advisory Committee

Recommended Action: Receive a report about the formation of the Police Chief’s Advisory Committee, review the application and selection process, and provide direction to staff.

C. FY 2023-24 City Fee Schedule

Recommended Action: Adopt a resolution amending the fee schedule for Fiscal Year (FY) 2023-24.

D. Amendments to Title 2: Administration and Personnel

Recommended Action: Introduce, by title only, waiving further reading of the text, an ordinance of the City of Capitola amending Chapters 2.04 and 2.08 of the Capitola Municipal Code.

10. Adjournment - Adjourn to the next regularly scheduled City Council meeting on November 9, 2023, at 6:00 PM.

Notice of In-Person & Remote Access

Meetings are open to the public for in-person attendance at the Capitola City Council Chambers located at 420 Capitola Avenue, Capitola, California, 95010

Other ways to Watch:

Spectrum Cable Television channel 8

City of Capitola, California YouTube Channel

To Join Zoom Application or Call in to Zoom:

Meeting

link: <https://us02web.zoom.us/j/83328173113?pwd=aVRwcWN3RU03Zzc2dkNpQzRWVXAydz09>

Or dial one of these phone numbers: **1 (669) 900 6833, 1 (408) 638 0968, 1 (346) 248 7799**

Meeting ID: **833 2817 3113**

Meeting Passcode: **678550**

To make a remote public comment:

Via Zoom Application: Use participant option to “raise hand”. The moderator will unmute you

Via Zoom phone call: Dial *9 on your phone to “raise your hand”. The moderator will unmute you

Notice regarding City Council: The City Council meets on the 2nd and 4th Thursday of each month at 6:00 p.m. in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

Agenda and Agenda Packet Materials: The City Council Agenda and the complete Agenda Packet are available for review on the City’s website: www.cityofcapitola.org and at Capitola City Hall prior to the meeting. Agendas are also available at the Capitola Post Office located at 826 Bay Avenue Capitola. Need more information? Contact the City Clerk’s office at 831-475-7300.

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

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

Si desea asistir a esta reunión pública y necesita ayuda - como un intérprete de lenguaje de señas americano, español u otro equipo especial - favor de llamar al Departamento de la Secretaría de la Ciudad al 831-475-7300 al menos tres días antes para que podamos coordinar dicha asistencia especial o envíe un correo electrónico a jgautho@ci.capitola.ca.us.

Televised Meetings: City Council meetings are cablecast “Live” on Charter Communications Cable TV Channel 8 and are recorded to be rebroadcasted at 8:00 a.m. on the Wednesday following the meetings and at 1:00 p.m. on Saturday following the first rebroadcast on Community Television of Santa Cruz County (Charter Channel 71 and Comcast Channel 25). Meetings are streamed “Live” on the City’s website at www.cityofcapitola.org by clicking on the Home Page link “**Meeting Agendas/Videos.**” Archived meetings can be viewed from the website at any time.

Gautho, Julia

From: Matt Farrell <mattfarrell922@gmail.com>
Sent: Wednesday, October 25, 2023 12:49 PM
To: City Council; Keiser, Marguax; Brooks, Yvette; Clarke, Joe; Brown, Kristen; Pedersen, Alexander
Subject: Letter in Support of Item 9a. Proposed Bike and Pedestrian Improvements
Attachments: Letter of Support for Item 9a Bike and Pedestrian Recommendations 10242023.docx

Mayor Keiser and councilmembers,

Attached is a word document version of our support letter for pedestrian and bicycle improvements in Capitola Village.

Matt Farrell
Chair, FORT



October 24, 2023

To: Mayor Keiser and the Capitola City Council

Subject: Support for Bike and Pedestrian Improvements in Capitola Village

Santa Cruz County Friends of the Rail and Trail (FORT) wants to thank city and county staff for all the work they have done on this project, which will improve bicycle and pedestrian access and safety into and through Capitola Village.

We urge Council to support the following changes:

- Revising the width of the existing bike and vehicular lanes for an approximately 350-foot-long portion of Cliff Drive, from the end of the Coastal Rail Trail to where the sidewalk begins on the coastal side of Cliff Drive, to allow demarcation of a separate 4-foot-wide pedestrian path on the coastal side adjacent to the Class II bike lane;
- Re-painting the existing white striping and adding green pavement painting to the existing Class II bike lanes through the Capitola Village; and
- Installing white sharrow markings with green backgrounds along the Class II bike routes where bicycles and vehicles share the lane through the Capitola Village.

We are supportive of city staff's interest in additional ADA improvements in Capitola Village and in a sidewalk on Cliff Drive. It is also our understanding that these elements were not included in the original project scope and would be hard to fund in the current budget. For this reason, we support the city applying for collaborating with the RTC on a future grant for this work.

Besides providing a much safer route for bicyclists to and through the Capitola Village, these changes will also improve pedestrian safety on Cliff Drive. Along with these benefits, these measures will provide a connection to the Rail Trail.

The staff report's attached RTC fact sheet on a proposed interim trail over the trestle bridge clearly addresses the extensive process and challenges presented by an interim trail. The long-term vision has always been for a continuous trail with a new rail bridge. At the conclusion of the Unified Corridor Investment Study, the Regional Transportation Commission unanimously affirmed its commitment to leave the railroad infrastructure in place, maintain freight rail service, and institute high-capacity public transit service.

Finally, given the overwhelming defeat of Measure D, there is strong evidence that our community supports this path; and wants to continue to preserve the opportunity for rail on the branch line.

Matt Farrell
Board Chair, FORT

Gautho, Julia

From: Jean Brocklebank <jeanbean@baymoon.com>
Sent: Wednesday, October 25, 2023 12:41 PM
To: City Council
Subject: [PDF] Agenda item 9.A. Coastal Rail Trail Segments 10 and 11
Attachments: B & G - Castle Ultimate 2.pdf; B & G - Castle Ultimate 1.pdf; Surf and Sand encroachment.pdf; Trade Winds encroachment.pdf

Dear Mayor Keiser and Council Members ~

I am writing about serious concerns regarding **impacts to residents** of at least two of three mobilehome parks in the City of Capitola, for your consideration as you provide direction to staff on a comment letter on the Draft EIR for Segments 10 & 11 of the Rail Trail.

The **impacts** would be a result of **relocation of the homes**, as proposed by the County of Santa Cruz (the CEQA lead agency, in coordination with the City of Capitola and the RTC).

There are five manufactured home parks in Segments 10 & 11, in which homeowners may be ultimately impacted if the Proposed Project (12' wide Ultimate Trail), as described in the EIR, is built. Three of these parks are in the City of Capitola. There are a variety of park property owners.

An **Optional First Phase** of the Proposed Project (16' wide interim trail down the center of the corridor) would eliminate these impacts. There is also a stand-alone Alternative 1 (16' Trail Only down the center of the corridor). Either the Optional First Phase (Part 1) or Alternative 1 would eliminate the relocation impacts to both residents and park owners in Capitola.

With one possible exception (Tradewinds, which is parcelized), the RTC communicates with the park property owner regarding relocation. However, it is very much the residents (home owners who rent the space from the property owner), who will bear the brunt of any relocation requirements.

The DEIR does not name the mobilehome parks. It discusses them generically. However, diagrams in the EIR Appendix make it very clear which parks and which homeowners will be affected if the Ultimate Trail is approved and built.

How relocation will be accomplished in mobile home parks is covered on p. 646 (3.15.9 Population and Housing) Threshold B (my bold emphasis):

"There may be existing structures that encroach into the RTC-- owned ROW that conflict with the trail. These unauthorized encroachments will be resolved by the RTC per their Encroachment Policy, regardless of the Project, as part of a separate process prior to trail construction in this area. As part of this process, property owner options include but are not limited to **physically moving the mobile homes several feet** outside the RTC-- owned rail corridor ROW and within the same mobile home park; if adequate space is not available to physically move an individual mobile home, **property owners could modify or replace the mobile home with a slightly smaller structure that fits within respective lot in the mobile home park or elsewhere on the owner's property, or they could move the mobile home to another nearby mobile home park that has space to accommodate it.** Because the encroachments are unauthorized, residents would not be considered "displacees" as defined by

the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act. However, the RTC would implement avoidance and minimization measure in accordance with their Encroachment Policy to reduce impacts to property owners and residents.

"In summary, the Project would **not result in the displacement of substantial numbers** of existing people or housing, necessitating the construction of replacement housing elsewhere. Therefore, the impact would be less than significant (Threshold B). No mitigation is required."

After observing installation of manufactured homes in various parks for over 30 years, beside the enormous cost, I think it would easily take 6 months per home to relocate it inside a park or replace it with a smaller home. All utilities are underground, so there would have to be gas, electric and water built in a new trench and the double wides would have to be broken into two units and recombined. Interior and exterior seams would have to be finished. Earthquake bracing would have to be re-installed. Meanwhile, the home owners would have to have someplace to live while all of this takes place.

To my knowledge, the RTC has not looked within parks to determine whether or not there are any opportunities for creating new spaces on which to relocate homes that currently encroach into the R-O-W.

I have attached the diagrams of the following City of Capitola parks to help you see the potential relocation problems associated with the Ultimate Trail configuration.

Castle Mobile Estates (owned & operated by non-profit Millennium Housing Corp.)

- This park is in Segment 10.
- In this part of Segment 10, with the Ultimate Trail, tracks are going to be moved south, coming within what looks like about 5' feet or less of several homes along the corridor.
- Castle Mobile Estates has about 5 homes that are currently encroaching (at the 38th Ave. end of Segment 10). One is very problematic in terms of "encroachment" but would be okay.
- If either the Optional First Phase of the Ultimate Trail or Alternative 1 (16' wide Trail Only) is built down the center of the corridor, there should be no dislocation of homes in Castle Mobile Estates.

Surf and Sand (investor-owned)

- This park is in Segment 10.
- This park appears to have only one encroachment difficulty; that is, an out building (storage shed?) that could easily be moved out of the ROW.

- If either the Optional First Phase of the Ultimate Trail or Alternative 1 (16' wide Trail Only) is built down the center of the corridor, there should be no dislocation of homes in Surf & Sand.

Tradewinds Park (resident-owned and parcelized)

- This park is in Segment 10.
- There is one encroachment. However, it appears that even with the Ultimate Trail configuration the corridor at this point is wide enough that the tracks can be moved inland (with trail moved to the coastal side) without relocation of that home.
- If either the Optional First Phase of the Ultimate Trail or Alternative 1 (16' wide Trail Only) is built down the center of the corridor, there should be no dislocation of homes in Tradewinds Park.

I first alerted some residents of Castle Mobile Estates in April of 2021, as well as Blue & Gold Star MHP, sharing my concerns after learning about the R-O-W situation and also addressing concerns to the RTC and County staff.

I think the County, as lead agency in this project, has a responsibility to contact all potentially impacted **homeowners** in the five parks of Segments 10 & 11, since it is they who will bear the brunt of relocation. Each home in the City of Capitola has a unique mailing address. Otherwise, with the exception of parcelized Tradewinds Park, it will only be the park property owner who learns of this situation.

I also recommend a timely meeting with these homeowners (**before** the DEIR comment period deadline), sponsored by the County, RTC and City of Capitola -- to take their questions and provide answers about what is proposed for their homes. They have a right to be so informed, just like residents who live within 300' of a regular development project have that right.

My personal recommendation is to support the Optional First Phase of the Proposed Ultimate 12' Trail, since it would guarantee that no affordable housing in Segments 10 & 11 will be impacted by disruption and relocation. Additionally, a 16' wide trail over the Capitola Trestle, included in the Optional First Phase, will solve the problem associated with diverting users of the multi-use trail onto the streets of Capitola.

Sincerely,

Jean Brocklebank

34+ year resident of a mobilehome park in the unincorporated County
19+ year member of the Mobile and Manufactured Home Commission

9.A. Coastal Rail Trail Segments 10 and 11 – Provide direction to staff on a comment letter on the Environmental Impact Report and Consolidated Coastal Permit Request for the Coastal Rail Trail Segments 10 and 11.

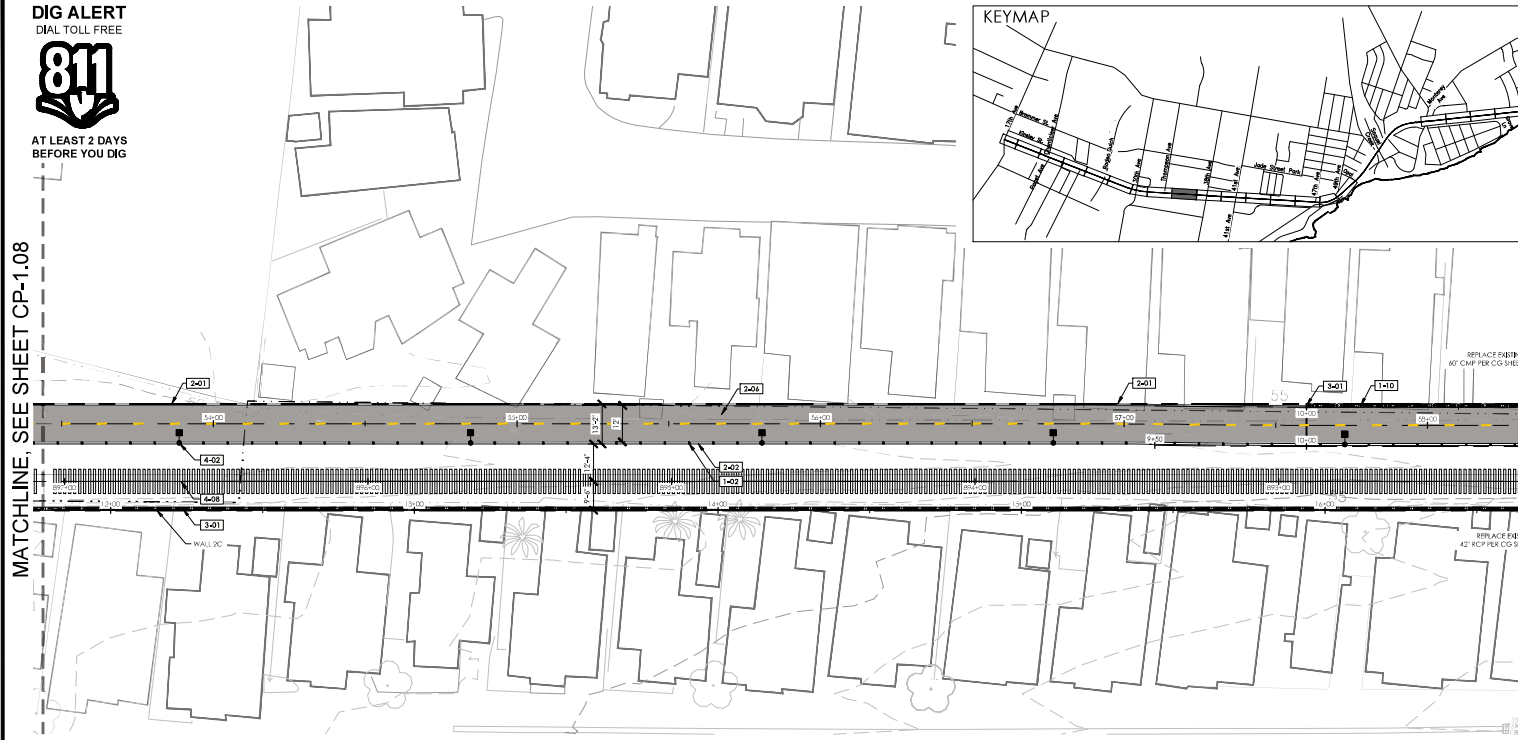
DIG ALERT
DIAL TOLL FREE



AT LEAST 2 DAYS
BEFORE YOU DIG

MATCHLINE, SEE SHEET CP-1.08

KEYMAP



REPLACE SCHEDING
60' CMP PER CO SHEETS

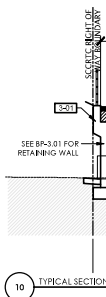
REPLACE SCHEDING
42' KOP PER CO SHEETS

REFERENCE NOTES SCHEDULE

SYMBOL	DESCRIPTION
STREET FURNISHINGS AND EQUIPMENT	
1-01	CONCRETE TRACK PANEL
1-02	SEPARATION FENCING
1-03	PROPOSED SIGN
1-05	TRASH RECEPTACLES
1-09	FLEXIBLE BOLLARD
1-10	GUARDRAIL SYSTEM
1-11	PROPOSED SIDEWALK UNDER DRAIN
PEDESTRIAN AND TRAFFIC CONTROL	
2-01	2' WIDE CURB
2-02	8' WIDE CURB
2-03	6' CURB AND GUTTER
2-04	CURB RAMP
2-05	DETECTABLE WARNING SURFACE
2-06	HMA PAVEMENT (TRAIL)
2-08	CONCRETE SIDEWALK
2-09	CONTINENTAL CROSSWALK STRIPING
2-10	CROSSBIKE MARKINGS
2-12	PROPOSED AT-GRADE CROSSING
STRUCTURAL	
3-01	RETAINING WALL. SEE WP SHEETS
3-02	VIADUCT
3-03	ABUTMENT
3-04	BRIDGE
UTILITIES	
4-02	PROPOSED LIGHT
4-03	NEW LIGHT FIXTURE ON EXISTING POLE
4-04	RELOCATED RAIL EQUIPMENT
4-05	SOLAR LED W11-15 CROSSING SIGN
4-07	FUTURE PHASE RAIL DROP ARM
4-08	PROPOSED RAIL REALIGNMENT

LEGEND

SYMBOL	DESCRIPTION
---	SCORRC RIGHT OF WAY
- - - - -	CITY LIMITS
---	EXISTING FENCE
---	FENCE OR GUARDRAIL ON CURB, WALL, VIADUCT OR BRIDGE
---	RETAINING WALL
●	PROPOSED LIGHTS
■	CONCRETE PAVEMENT
■	HMA PAVEMENT (TRAIL)
■	VIADUCT WITH FIBERGLASS REINFORCED POLYMER DECK
■	BRIDGE WITH FIBERGLASS REINFORCED POLYMER DECK



REVISIONS	



COUNTY OF SANTACRUZ
DEPARTMENT OF PUBLIC WORKS
701 Ocean Street, Room 410
Santa Cruz, CA 95060

RAIL TRAIL SEGMENTS 10 & 11
TRAIL NEXT TO THE RAIL LINE (ULTIMATE TRAIL CONFIGURATION)
CONSTRUCTION KEYNOTE PLANS

REFERE
FIELD BO
DRAWING
CP-0193

DIG ALERT
CALL TOLL FREE
811
AT LEAST 2 DAYS BEFORE YOU DIG

CIRCLE DRIVE

JADE STREET PARK

MATCHLINE, SEE SHEET CP-1.12

MATCHLINE, SEE SHEET CP-1.14

MATCHLINE, SEE SHEET CP-1.12

REFERENCE NOTES SCHEDULE

SYMBOL	DESCRIPTION	KEYNOTE
	CONCRETE SIDEWALK	2-08
	CONTINENTAL CROSSWALK STRIPING	2-07
	CONCRETE TRACK PANEL	1-01
	SEPARATION FENCING PANEL	1-02
	PROPOSED SIGN	1-03
	TRASH RECEPTACLES	1-04
	FLEXIBLE BOLLARD	1-05
	GUARDRAIL SYSTEM	1-10
	PROPOSED SIDEWALK UNDER DRAIN	1-11
	PEDESTRIAN AND TRAFFIC CONTROL	2-01
	6' WIDE CURB	2-02
	8' WIDE CURB	2-03
	CURB AND GUTTER	2-04
	CURB RAMP	2-05
	DETECTABLE WARNING SURFACE	2-06
	HMA PAVEMENT (TRAIL)	4-01
	RELOCATED RAIL EQUIPMENT	4-02
	SOLAR LED W11-S CROSSING SIGN	4-03
	FUTURE PHASE RAIL DROP ARM	4-07
	PROPOSED RAIL REALIGNMENT	4-08

LEGEND

SYMBOL	DESCRIPTION
	SCENIC RIGHT OF WAY
	CITY LIMITS
	EXISTING FENCE
	FENCE OR GUARDRAIL ON CURB, TRAIL, ROADCUT OR BRIDGE
	RETAINING WALL
	PROPOSED LIGHT
	HMA PAVEMENT (TRAIL)
	DUCT WITH FIBERGLASS REINFORCED POLYMER DECK
	BRIDGE WITH FIBERGLASS REINFORCED POLYMER DECK

14 TYPICAL SECTION

SCALE 1/8" = 1'-0"

REFERENCES

DATE	SCALE
02/10/2023	AS SHOWN

DRAWING # CP-0193-06-RWT-510

REVISIONS

NO.	DESCRIPTION

COUNTY OF
SANTACRUZ
DEPARTMENT OF PUBLIC WORKS
701 Ocean Street, Room 410
Santa Cruz, CA 95060

RAIL TRAIL SEGMENTS 10 & 11
TRAIL NEXT TO THE RAIL LINE (ULTIMATE TRAIL CONFIGURATION)
CONSTRUCTION KEYNOTE PLANS

REFERENCES

DATE	SCALE
02/10/2023	AS SHOWN

DRAWING # CP-0193-06-RWT-510

DRAWN KS

DESIGN KS/MS

CHECKED MS

SCALE AS SHOWN

CP-1.13

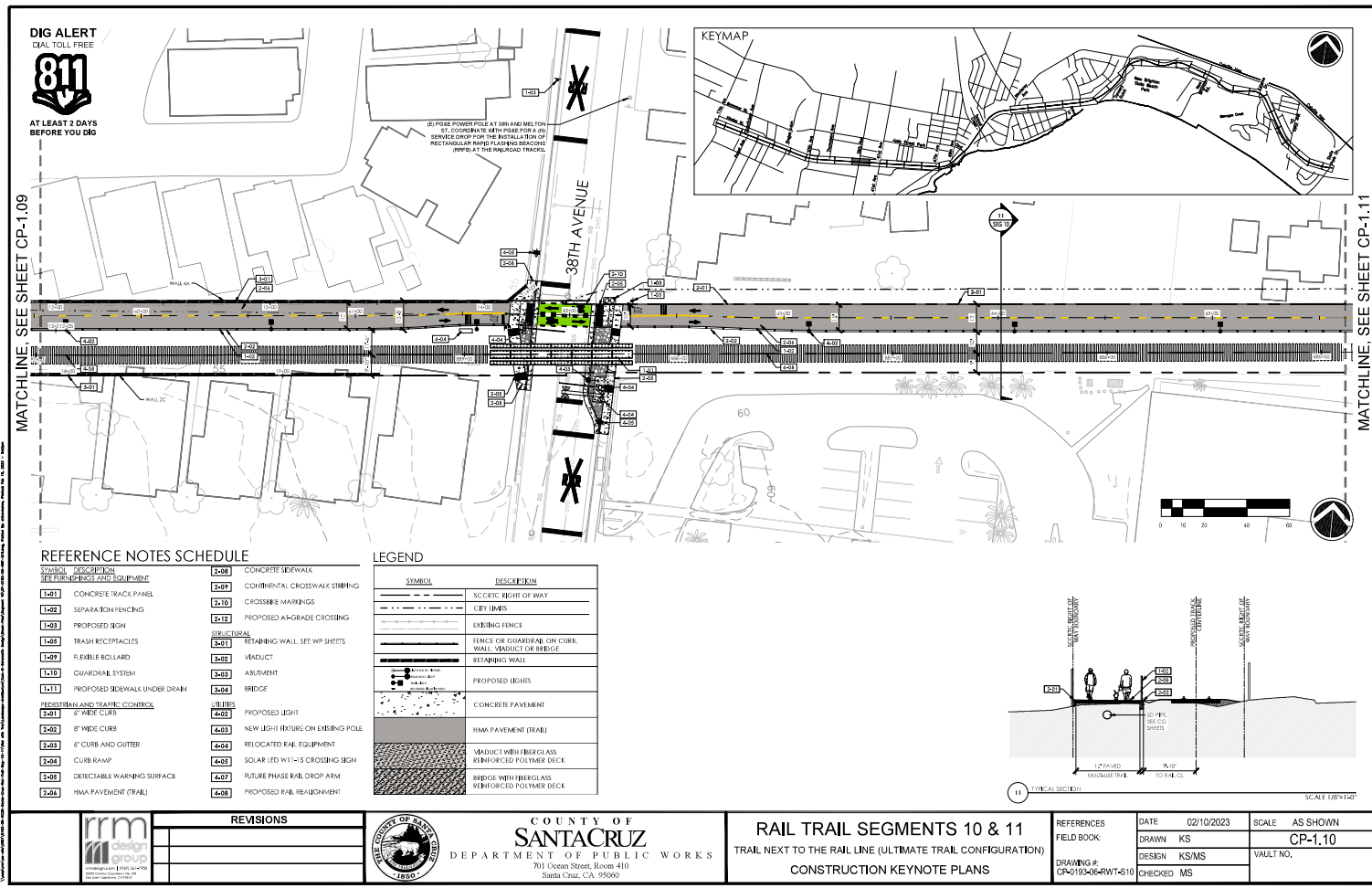
VAULT NO.

MATCHLINE, SEE SHEET CP-1.12

MATCHLINE, SEE SHEET CP-1.12

MATCHLINE, SEE SHEET CP-1.14

MATCHLINE, SEE SHEET CP-1.12



DIG ALERT
 CALL TOLL FREE
811
 AT LEAST 2 DAYS
 BEFORE YOU DIG

SEE POWER POLE AT 500 AND NEELSON ST. COORDINATE WITH PASADENA IN SERVICE DROP FOR THE INSTALLATION OF RECTANGULAR RAPID FLOORING SECTIONS (REFER TO THE MARKED TRACKS).

KEYMAP

38TH AVENUE

MATCHLINE, SEE SHEET CP-1.09

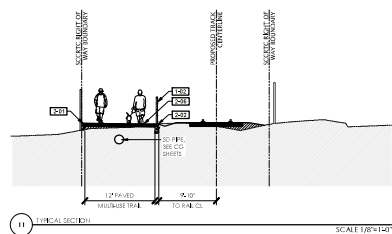
MATCHLINE, SEE SHEET CP-1.11

REFERENCE NOTES SCHEDULE

SYMBOL	DESCRIPTION	SYMBOL	DESCRIPTION
1-01	CONCRETE TRACK PANEL	2-08	CONCRETE SIDEWALK
1-02	SEPARATION FENCING	2-09	CONTINENTAL CROSSWALK STRIPING
1-03	PROPOSED SIGN	2-10	CROSSWALK MARKINGS
1-04	TRASH RECEPTACLES	2-11	PROPOSED A-GRADE CROSSING
1-05	FLEXIBLE BOLLARD	2-12	RETAINING WALL SEE WP SHEETS
1-06	GUARDRAIL SYSTEM	2-13	VIADUCT
1-07	PROPOSED SIDEWALK UNDER DRAIN	2-14	ABUTMENT
1-08	PEDESTRIAN AND TRAFFIC CONTROL	2-15	BRIDGE
1-09	8" WIDE CURB	2-16	PROPOSED LIGHT
1-10	6" CURB AND CUTTER	2-17	NEW LIGHT FIXTURE ON EXISTING POLE
1-11	CURB RAMP	2-18	RELOCATED RAIL EQUIPMENT
1-12	DETECTABLE WARNING SURFACE	2-19	SOLAR LED W11-S CROSSING SIGN
1-13	HMA PAVEMENT (TRAIL)	2-20	FUTURE PHASE RAIL DROP ARM
		2-21	PROPOSED RAIL REALIGNMENT

LEGEND

SYMBOL	DESCRIPTION
(Dashed line)	SCHEMATIC RIGHT OF WAY
(Dotted line)	CITY LIMITS
(Solid line)	EXISTING FENCE
(Line with dashes)	FENCE OR GUARDRAIL ON CURB, RAIL, VIADUCT OR BRIDGE
(Line with dots)	RETAINING WALL
(Line with circles)	PROPOSED BENCH
(Line with squares)	CONCRETE PAVEMENT
(Line with triangles)	HMA PAVEMENT (TRAIL)
(Line with diamonds)	VIADUCT WITH FIBERGLASS REINFORCED POLYMER DECK
(Line with stars)	BRIDGE WITH FIBERGLASS REINFORCED POLYMER DECK



REVISIONS

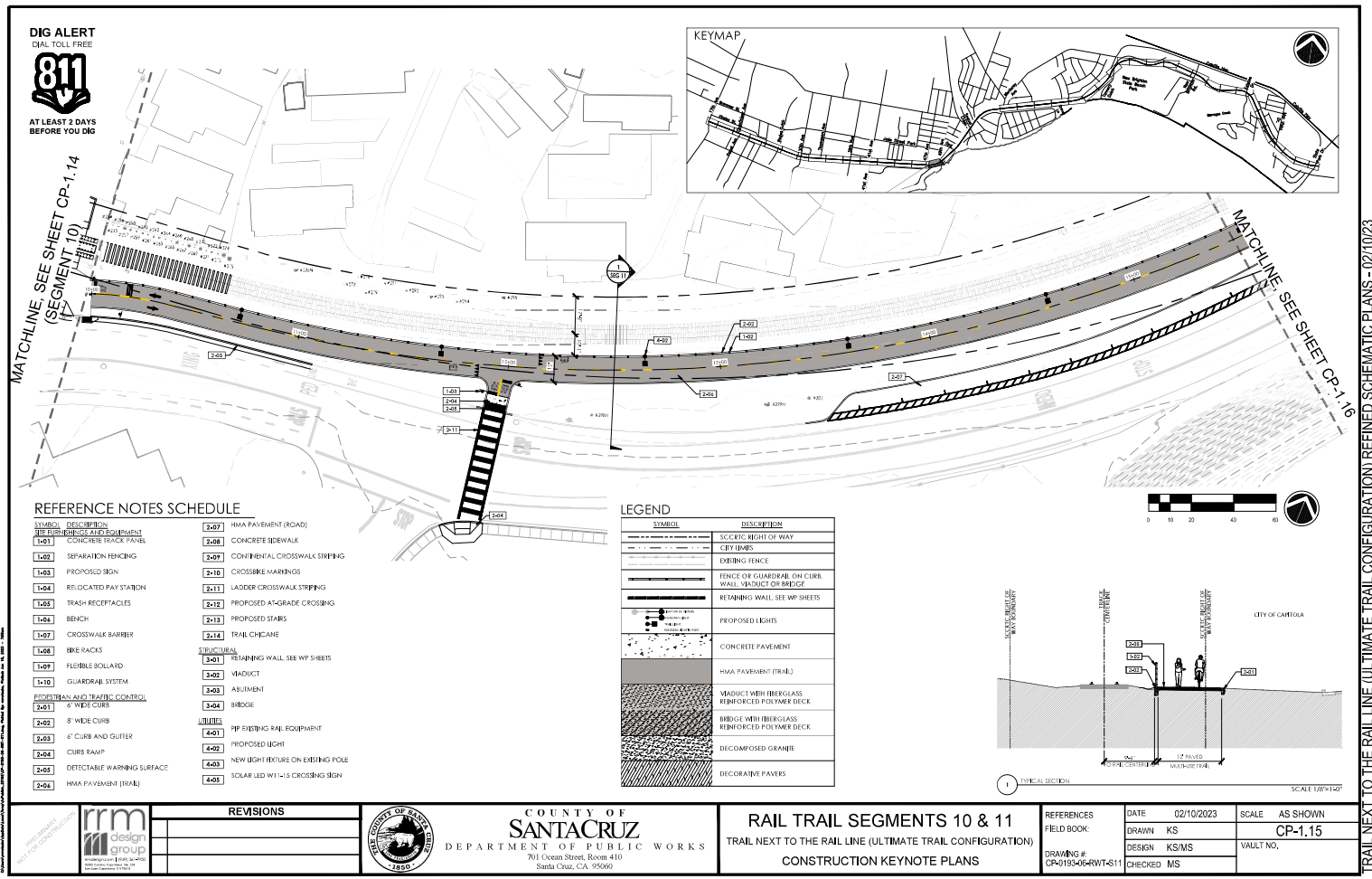
NO.	DESCRIPTION



COUNTY OF
SANTACRUZ
 DEPARTMENT OF PUBLIC WORKS
 701 Ocean Street, Room 410
 Santa Cruz, CA 95060

RAIL TRAIL SEGMENTS 10 & 11
 TRAIL NEXT TO THE RAIL LINE (ULTIMATE TRAIL CONFIGURATION)
 CONSTRUCTION KEYNOTE PLANS

REFERENCES	DATE	SCALE
FIELD BOOK	02/10/2023	AS SHOWN
DRAWN: KS		CP-1.10
DESIGN: KS/MS		VAULT NO.
CHECKED: MS		



DIG ALERT
 CALL TOLL FREE
811
 AT LEAST 2 DAYS
 BEFORE YOU DIG

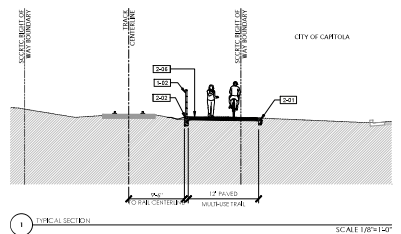
KEYMAP

REFERENCE NOTES SCHEDULE

SYMBOL	DESCRIPTION
1-01	CONCRETE TOCK PANEL
1-02	SEPARATION FENCING
1-03	PROPOSED SIGN
1-04	RELOCATED PAY STATION
1-05	TRASH RECEPTACLES
1-06	BENCH
1-07	CROSSWALK BARRIER
1-08	BIKE RACKS
1-09	FLEXIBLE BOLLARD
1-10	GUARDRAIL SYSTEM
1-11	MODERATOR AND TRAFFIC CONTROL
2-01	6" WIDE CURB
2-02	8" WIDE CURB
2-03	4" CURB AND GUTTER
2-04	CURB RAMP
2-05	DETECTABLE WARNING SURFACE
2-06	HMA PAVEMENT (TRAIL)
3-07	HMA PAVEMENT (ROAD)
3-08	CONCRETE SIDEWALK
3-09	CONTINGENTIAL CROSSWALK STRIPING
3-10	CROSSBIE MARKINGS
3-11	LADDER CROSSWALK STRIPING
3-12	PROPOSED AT-GRADE CROSSING
3-13	PROPOSED STAIRS
3-14	TRAIL CHICANE
3-15	RETAINING WALL - SEE WP SHEETS
3-16	VIADUCT
3-17	ABUTMENT
3-18	BRIDGE
4-01	FP FIXING RAIL EQUIPMENT
4-02	PROPOSED LIGHT
4-03	NEW LIGHT FIXTURE ON EXISTING POLE
4-04	SOLAR LED W/L-1'S CROSSING SIGN

LEGEND

SYMBOL	DESCRIPTION
[Symbol]	SCENERY HEIGHT OF WAY
[Symbol]	CITY LIMBS
[Symbol]	EXISTING FENCE
[Symbol]	FENCE OR GUARDRAIL ON CURB, WALL, VIADUCT OR BRIDGE
[Symbol]	RETAINING WALL - SEE WP SHEETS
[Symbol]	PROPOSED LIGHTS
[Symbol]	CONCRETE PAVEMENT
[Symbol]	HMA PAVEMENT (TRAIL)
[Symbol]	VIADUCT WITH FIBERGLASS REINFORCED POLYMER DECK
[Symbol]	BRIDGE WITH FIBERGLASS REINFORCED POLYMER DECK
[Symbol]	DECOMPOSED GRANITE
[Symbol]	DECORATIVE PAVERS



REVISIONS

NO.	DESCRIPTION



COUNTY OF
SANTACRUZ
 DEPARTMENT OF PUBLIC WORKS
 701 Ocean Street, Room 410
 Santa Cruz, CA 95060

RAIL TRAIL SEGMENTS 10 & 11
 TRAIL NEXT TO THE RAIL LINE (ULTIMATE TRAIL CONFIGURATION)
 CONSTRUCTION KEYNOTE PLANS

REFERENCES	DATE	SCALE
FIELD BOOK	02/10/2023	AS SHOWN
DRAWN: KS		CP-1.15
DESIGN: KS/MS		VAULT NO.
CHECKED: MS		

TRAIL NEXT TO THE RAIL LINE (ULTIMATE TRAIL CONFIGURATION) REFINED SCHEMATIC PLANS - 02/10/23

Gautho, Julia

From: Ben Vernazza <ben@benvcpa.com>
Sent: Wednesday, October 25, 2023 2:07 PM
To: City Council
Cc: Gautho, Julia
Subject: [PDF] PRESENTATION CITY COUNCIL Oct 26, 2023
Attachments: Capitola Oct presentation.pdf

"Segment 9 ultimate trail is UNSAFE and DANGEROUS."

Please add to materials for meeting.

Ben

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PRESENTATION CAPITOLA CITY COUNCIL

(October 26, 2023)

Item 5 A.

SEGMENT 9 ULTIMATE TRAIL IS UNSAFE AND DANGEROUS

The MBSST Master Plan describes the Ultimate trail for Seg 9-10-11 as being 12 feet wide. Caltrans, however, explains that Class 1 bikeways must have two 2-foot shoulders (3 feet where feasible) setbacks within fixed objects (i.e., fence posts, walls) and **are not considered part of the traveled way. Because the Ultimate path is primarily contained between fences or walls, the path width, or “traveled way,” (of these Segments) are mostly 8 feet wide.**

The Interim trail is 20 ft wide and includes a 2 ft shoulder on each side and has a **traveled way of 16 ft. The other advantage is the ability to separate bikes and pedestrians with their own to and from lanes!**

Johanna Lighthill, of Seacliff, has studied Segment 9 in detail. It includes additional SAFETY deficiencies. She spent hours and hours on Segment 9 and currently is studying the details of Seg 10 and 11.

DUTY OF "PUBLIC SAFETY AND NECESSITY" AND AVOIDANCE OF "PUBLIC NUISANCES"

"Public Safety and Necessity" and "Public Nuisance" are legal concepts that have been developed over time through common law and statutory law. They refer to the duty of public employees and public agencies to protect the public from harm and to ensure that public property is used in a safe and responsible manner.

In the context of trails, public agencies have a responsibility to:

- **Design** safe trails.
- **Maintain** trails in a safe condition.
- **Clear** trails of debris and hazards.
- **Enforce** trail regulations.
- **Prevent** crime.
- **Address** public nuisances on trails.

Public agencies may be liable for injuries or damage that occur on trails if they fail to meet their duty of care. This means that they must take reasonable steps to prevent foreseeable accidents. For example, if someone is injured as a result, the agency may be held liable for negligence.

Public agencies may also be liable for public nuisances on trails. A public nuisance is a condition that interferes with the public's health, safety, or welfare. Public agencies have a responsibility to abate public nuisances, which also means to remove an unsafe proposed design.

The width of a trail and the sharing of pedestrians and bikes can also create safety issues. A trail that is too narrow can make it difficult for pedestrians and bikes to pass each other safely. This can lead to collisions, especially if users are traveling at different speeds.

There are a number of ways to address the safety issues associated with trail width and sharing. One option is to widen the trail.

PUBLIC AGENCY NON-FEASANCE - TRAIL DESIGN

Here are some situations of non-feasance regarding trails:

- A public agency fails to design a trail in a safe manner. For example, the agency designs a trail that is too narrow and/or is enclosed.
- A public agency fails to repair a dangerous condition on a trail, such as a pothole or an unsafe bridge.
- A public agency fails to install warning signs at a hazardous location on a trail. For example, the agency fails to post a sign warning of a steep hill or a sharp turn.
- A public agency fails to clear a trail of debris or hazards. For example, the agency fails to remove a fallen tree or a pile of rocks from the trail.

These are just a few examples. There are many other situations in which a public agency could be held liable for non-feasance regarding trail designs. The specific facts of each case will determine whether the agency is liable.

To be liable for non-feasance, the public agency must have a duty to act, it must have failed to act, and its failure to act must have been the proximate cause of the injury or damage. The duty to act can arise from a statute, a regulation, or a common law principle.

If a public agency fails to fulfil its duty to act, it may be liable for any injuries or damage that result. The proximate cause of an injury or damage is the legal cause of the injury or damage. This means that the injury or damage must have been foreseeable and was likely to occur because of the agency's failure to design a plan or to act.

Note: This is not a legal opinion. It is a lay person (me) researching the laws.

CAPITOLA – CULTURAL CENTER OF MID-COUNTY

We live in Aptos and Capitola is the nearest city and one only has to look at your quarterly RECREATION brochure to see Capitola is the mid-county cultural center. More than half of the events are for “kids” and COMING SOON: Capitola City Council recently joined forces with County Park Friends to build THE JADE STREET PARK UNIVERSALLY ACCESSIBLE PLAYGROUND.

A recent Playground Guest Commentary in the Sentinel said, “Every child deserves a SAFE place to play, laugh with their friends, chase each other on foot or on wheels, giggle as they zoom down a slide, and which also includes play equipment for boys and girls with disabilities .”

My thoughts: Kids not only need a SAFE place to play but they need a SAFE way to get there and back home. We must be certain that Segment 9-10-11 on the coastal trail is SAFE for them. Also, we must evaluate a proposal by some to have fast moving trains travelling right next to this upcoming *Jade St. Universally Accessible Park Playground*.

Let’s also be worried about SAFETY for elderly and disabled because this group regularly use the Jade St. Community Center and could “trail-travel” to Santa Cruz to go to a Warriors Game or Concert etc.

J. Ben Vernazza, CPA, PFS, TEP emeritus (Aptos resident since 1967)

P.S. As they say in Australia: “GOOD ON YA” CAPITOLA!

October 26.2023 Presentation to the Capitola City Council

Gautho, Julia

From: Gayle Ortiz <gayle@gocapitola.com>
Sent: Thursday, October 26, 2023 1:00 PM
To: City Council
Subject: Tonight's agenda item-trail

Dear Council member,

I am writing in support of the Interim Trail option with safety also in mind. It has been my opinion, and one that I think most Capitolans agree with, that the Ultimate Trail/rail will never be built.

When Vision Capitola conducted a survey a few years back, even then, the vast majority didn't believe rail was the best option for transportation.

Thank you for your service to Capitola and it's citizens,

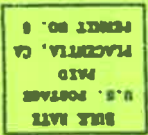
Gayle Ortiz

City Managers and "Model City Charters"

Your City Government

by Anne Garni

Anne Garni served as
Councilwoman on the
Santa Cruz City Council,
was former President of the
Board of Realtors in
Santa Cruz, author of many
articles including
New Federalism.



Placentia Citizens For
Civic Responsibility
P.O. Box 1573
Placentia, California 92670

IF YOU WOULD LIKE TO HAVE MORE COPIES OF THIS BROCHURE
PLEASE WRITE TO THE
Placentia Citizens for Civic Responsibility.

Also ... if you would like to be informed of ... or want to participate in any up coming debate
on this subject, send us a self addressed stamped envelope.

THE PCR URGES ALL THE CITY'S FACTIONS TO CONSIDER THE DIFFERENCES BETWEEN
THE PRESENT GENERAL POWERS CHARTER AND ONE WHERE THE CITIZENS HAVE
MUCH MORE TO SAY.

"Never again will we accept our government in a blindly faithful apathetic way. I ask you to investigate..."
Don Holt (Former Placentia City Councilman)
A durable statement made some years ago concerning government.
PERMISSION IS GRANTED TO REPRINT WHEN CREDIT IS GIVEN TO ANNE GARNI

A WESOME POWERS

(The following was written by Mrs. Garni after having served as Councilwoman in Santa Cruz. The Placentia City Charter embraces many similar provisions.)

The majority of cities today are governed by City Managers. It wasn't until after being elected to the City Council in Santa Cruz that I first became aware of the shift of responsibilities from the elected officials to appointed executives. This is true of counties, too, but I would like to center in on the awesome powers placed in the hands of the city manager by the adoption of the "Model City Charter" which has been made a part of most city governments.

Less-than-honest men

Less-than-honest men have become wealthy under this system, and still others have been deprived of their livelihood through the manipulations of zoning laws and the selective enforcement of various restrictions.

National Municipal League

In delving into the history of the council-manager form of government, we have learned that our "Model City Charter" was not written by the people of Santa Cruz, for the people of Santa Cruz, but was fathered by Richard S. Childs, former President of the National Municipal League; the organization that has been publishing and implementing this revolutionary form of government throughout the country since 1915. The league credits Richard S. Childs as being the man "who in this century has had the greatest impact on local government."

Directed by Rockefeller money

The National Municipal League is a satellite of the Public Administration Service, more commonly known as the 1313 Center because of its address at 1313 East 60th Street in Chicago. This Center was founded, financed and directed by

Rockefeller money. Public administrators are trained by this institution and are placed in city, county, state and federal positions, taking over the responsibilities formerly vested in our elected representatives—always in the name of "efficiency".

(Placentia City Treasurer is paid \$5.00 a month to "stay home".)

TO SIX MONTHS IN JAIL

Our Model City Charter restricts the elected officials from carrying out the wishes of the voters. Section 809 reads: "No interference between the Council and the City Manager." It further states that "Any Councilman who violates this provision, or votes for a resolution or ordinance in violation hereof, shall be guilty of a misdemeanor," which is punishable by up to six months in jail, a \$500 fine and the loss of the council seat.

(The above section refers to the Santa Cruz City Charter. See Section 610 and 1401 of the Placentia City Charter for similar provision.)

Not an American Citizen

City Managers are members of the International City Managers' Association. The charter does not even require that this man be an American citizen. It states only that he become a bona fide resident of the city after his appointment. City managers are imports into the cities that they control.

(Placentia City Manager, Roger Kemp has authorized articles printed in the "Purist" magazine which envisions a world government.)

A government monopoly

In analyzing the history of the present system of public administration on the different levels of government, it becomes apparent that the bureaucracies control the elected officials, rather than the other way around. We are moving from a representative form of government and the free

enterprise system to a socialistic dictatorship. As we move further into a socialist state, both power and money move from the people to the ruling elite. Socialism can only work in a dictatorship—a government monopoly. It requires the centralization of money and power to siphon the earnings of the workers through the bureaucracy, then redistributing what is left back to the community, with the usual strings attached. A free enterprise system can only work and flourish when government is restricted from competing with, and dominating the economy.

The Council on Foreign Relations

The Rockefeller family, who influenced the revolutionary changes in our government through grants, are monopolists and international socialists, not advocates of the competitive free enterprise system, nor of a government of, by and for the people. Their money had a great deal of influence on the indoctrination of students in the social sciences; their money has financed the Council on Foreign Relations, the Public Administration Clearing House (1913), the Brookings Institution, the National Bureau of Economic Research, the Russian Institute, etc. These institutions serve to bring about a centralization of money and power in a world dictatorship.

Return to an elected executive

More and more responsibilities are shifted from elected representatives to appointed bureaucrats. It is important to start where the people have more influence, and that is at the local level. The first task then would be to work toward the abolition of the council-manager form of government and a return to an elected executive.

Placentia Citizens For Civic Responsibility

P.O. Box 1573
Placentia, California 92670

"The People are the City"

(Are They?)

In every stage of these Oppressions We have Petitioned for Redress in the most humble terms. Our repeated Petition have been answered only by repeated injury. A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free People.

Nor have We been wanting in attention to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of Justice and to consanguinity. We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends.

We, therefore, the Representatives of the united States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliance, establish Commerce, and to do all other Acts and

Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes, and our sacred Honor.

SIGNERS OF THE UNANIMOUS DECLARATION

According to the Authenticated List printed by Order of Congress of January 18, 1777

John Hancock.

New-Hampshire, <i>Josiah Bartlett,</i> <i>Wm. Fishers,</i> <i>Matthew Thornton</i>	Delaware, <i>Cesar Rodney,</i> <i>Geo. Read,</i> <i>The McKean.</i>
Massachusetts, <i>Saml. Adams,</i> <i>John Adams,</i> <i>Robt. Treat Paik,</i> <i>Elbridge Gerry.</i>	Maryland, <i>Samuel Chase,</i> <i>Wm. Pac,</i> <i>Theo. Stone,</i> <i>Charles Carroll, of Car-</i> <i>rollton.</i>
Rhode-Is. & Providence, <i>Ac. Sigs, Hopkins,</i> <i>William Ellery.</i>	Virginia, <i>George Wythe,</i> <i>Richard Henry Lee,</i> <i>Thomas Jefferson,</i> <i>Benje. Harrison,</i> <i>Theo. Nelson, Jr,</i> <i>Francis Lightfoot Lee,</i> <i>Carter Braxton.</i>
Connecticut, <i>Roger Sherman,</i> <i>Saml. Huntington,</i> <i>Wm. Williams,</i> <i>Oliver Wolcott.</i>	North Carolina, <i>Wm. Hooper,</i> <i>Joseph Hewes,</i> <i>John Penn.</i>
New-York, <i>Wm. Floyd,</i> <i>Phil. Livingston,</i> <i>Fraas Lewis,</i> <i>Lewis Morris.</i>	South-Carolina, <i>Edward Rutledge,</i> <i>Theo. Heyward, Junr,</i> <i>Thomas Lynch, Junr,</i> <i>Arthur Middleton,</i> <i>John Rutledge,</i> <i>Geo. Walton.</i>
New-Jersey, <i>Richd. Stockton,</i> <i>Jo. Witherspoon,</i> <i>Fras. Hopkinson,</i> <i>John Hart,</i> <i>Abna Clark.</i>	Georgia, <i>Barton Conway,</i> <i>Lyman Hall,</i> <i>Geo. Walton.</i>
Pennsylvania, <i>Robt. Morris,</i> <i>Benjamin Rush,</i> <i>Bryja. Franklin,</i> <i>John Morton,</i> <i>Geo. Clymer.</i>	

YOUR TURN!

You — as a juror — armed merely with the knowledge of what a COMMON LAW JURY really is and what your common law rights, powers, and duties really are, can do more to re-establish "liberty and justice for all" in this State and ultimately throughout all of the United States than all our Senators and Representatives put together. Why? Because even without the concurrence of any of your fellow jurors in a criminal trial, you, with your single voice of "NOT GUILTY" can nullify every rule or "law" that is not in accordance with the principles of natural, God-given, Common, or Constitutional Law. It is precisely this power of nullification that makes the trial by JURY one of our most important RIGHTS. It can protect and preserve all of the citizen's other RIGHTS.

The CONSTITUTION OF THE UNITED STATES

We the People* of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

*Originally, the Constitution had no title but simply began "We the People"

ARTICLE 1

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty-five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three-fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Con

For depriving us in many cases of the benefits of Trial by Jury:

For transporting us beyond Seas to be tried for pretended offenses:

For abolishing the free System of English Laws in a neighboring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these Colonies:

For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Government:

For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated Government here, by declaring us out of his Protection and wagging War against us.

He has plundered our seas, ravaged our Coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large Armies of foreign Mercenaries to complete the works of death, desolation and tyranny, already begun with circumstances of Cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation.

He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of their friends and Brethren, or to fall themselves by their Hands.

He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

state remaining in the meantime exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass others to encourage their migrations hither, and raising the conditions of new Appropriations of Lands.

He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary Powers.

He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, Standing Armies without the Consent of our legislature.

He has affected to render the Military independent of and superior to the Civil power.

He has combined with Others to subject us to a Jurisdiction foreign to our Constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:

For Quartering large bodies of armed troops among us:

For protecting them, by a mock trial, from punishment for any Murders which they should commit on the Inhabitants of these States:

For cutting off our Trade with all parts of the world:

For imposing Taxes on us without our Consent:

gress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

Section 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

Section 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

right, it is their duty, to throw off such Government, and to provide new Guards for their future security. Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

He has refused his Assent to Laws, the most wholesome and necessary for the public good.

He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasion on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the

**In CONGRESS, July 4, 1776.
The unanimous Declaration of
the thirteen united States
of America**

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitles them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed. That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their

Section 5. Each House shall be the Judge of Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States which shall have been created, or the Emoluments



whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance of Office.

Section 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him; or

this amendment because of the manner of ratification which was highly suspect. At least 10 States were held by force of arms until the proper authorities agreed to vote for this amendment. An excellent overview of this was written by the Utah Supreme Court — 439 Pacific Reporter 2d Series pp. 266-276, and for a more detailed account of how the 14th amendment was forced upon the Nation see articles in 11 S.C. L. Q. 484 and 28 Tul. L. Rev. 22., took effect July 28, 1868.

- XV. Non Freeholders given right to vote, took effect March 30, 1870.
 - XVI. Income tax, took effect Feb. 25, 1913, possibly only four States ratified it properly.
 - XVII. Direct elections of senators; electors; vacancies in the senate, took effect May 31, 1913. This moved us from a complex Republic to a simple republic much like the style of government of the Soviet Union. State rights were lost and we were plunged headlong into a democracy of which our forefathers wanted was the vilest form of government because it always ends in oppression.
 - XVIII. Prohibition of liquor traffic, took effect Jan. 29, 1920.
 - XIX. Voting for women, took effect Aug. 27, 1920.
 - XX. Terms of the president, vice president, senators and representatives; date of assembling of congress, vacancies of the president, power of congress in presidential succession, took effect Feb. 6, 1933.
 - XXI. Eighteenth Article repealed; took effect Dec. 5, 1933.
 - XXII. Limits of the presidential term, took effect Mar. 1, 1951.
 - XXIII. Electors for the District of Columbia, took effect April 3, 1961.
 - XXIV. Failure to pay any tax does not deny one the right to vote, took effect Feb. 4, 1964.
 - XXV. Filling the office of the president or vice president during a vacancy, took effect Feb. 23, 1967.
 - XXVI. Right to vote at 18, took effect July 5, 1971.
- *Took effect is used as there is a great deal of suspicion as to the nature of these amendments (common law vs equity), also whether these last 16 amendments are legal, how many were ratified correctly, do they create a federal constitution in opposition to the original, etc. For further studies a good place to begin is with the article by the Utah Supreme Court on the 14th amendment, 439 Pacific Reporter 2d Series, pp 266-276, and Senate Doc. 240.

**GENERAL INDEX TO:
THE BILL OF RIGHTS
and Amendments**

PREAMBLE: Limiting the federal government: An expressed desire to prevent abuse of federal powers!

ARTICLES — COMMON LAW

- I. Religious freedom, both to an establishment as well as the free exercise thereof; freedom of speech, press; right of petition.
 - II. Right to bear arms.
 - III. Quartering of soldiers.
 - IV. The right to privacy and security against unreasonable searches and seizures; search warrants.
 - V. Grand Jury, double jeopardy, no one must witness against himself, no loss of life, liberty or private property without due process.
 - VI. Speedy and public trials, impartial jury, nature and cause, right to confront; compulsory witnesses, assistance of Counsel — note, does not say attorney.
 - VII. Right to trial by jury according to the rules of common law — Ten Commandments are the foundation of Common Law.
 - VIII. Excessive bail, fines, punishment etc. prohibited.
 - IX. Rights beyond Bill of Rights belong to the people.
 - X. Undelegated powers belong to the people unless given by the people to the states.
Articles I-X were proposed Sept. 25, 1789, ratified Dec. 15, 1791.
- AMENDMENTS — EQUITY LAW**
- XI. Restriction of judicial powers, proposed Mar. 5, 1794, adopted Jan. 8, 1798.
 - XII. Manner of electing the president and vice president, proposed Dec. 12, 1803, adopted Sept. 25, 1804.
 - XIII. Slavery and involuntary servitude prohibited, took effect* Dec. 18, 1865.
 - XIV. Citizenship and status defined, privilege of 2nd, 3rd, or whatever status of citizenship one selects for oneself, as opposed to Freeholder with full sovereign rights; apportionment of representatives; who is prohibited from holding office; public debt.
Caution: There is serious doubt as to the legality of

being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section 8. The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no

Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;
To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings:—And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Office thereof.

Section 9. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

ARTICLE II.

SECTION

1. Executive powers; electors; qualifications, vacancy, compensation and Oath of the president.
2. Powers and duties of the president; making of treaties; power of appointments.
3. Other powers and duties.
4. All government officers are liable to impeachment.

ARTICLE III.

SECTION

1. Judicial powers; all judges must have good Behaviour to stay in office; compensation not to be diminished.
2. Jurisdiction of federal courts and supreme court; trials for crimes by jury except impeachment.
3. Treason defined; trial for and punishment.

ARTICLE IV.

SECTION

1. Message to the states; each state is to give full faith and credit to public acts and records of others states.
2. Citizens of each state shall be entitled; fleeing from justice.
3. Admission of new states; power of congress over territories.
4. Republican form of government guaranteed to every state; protection from invasion or domestic violence.

ARTICLE V.

SECTION

1. Amending the Constitution.

ARTICLE VI.

SECTION

1. National obligations; Public debt; Constitution to be the supreme Law of the land; Constitutional Oath of office; no religious test required.

ARTICLE VII.

SECTION

1. Ratification of the Constitution; George Washington signs as a Twelfthindi, the highest rank in Saxon government, eg. He was equal of 1200 King Georges, or you as a juror are equal to 1200 presidents, congressmen or judges, local, federal or of the supreme Court.

**GENERAL INDEX TO:
CONSTITUTION OF THE UNITED STATES**

Preamble: The people hold the power: "We the people . . . in order to form a more perfect union, . . . and secure the blessings of liberty . . ."

ARTICLE I.

SECTION-

1. **Legislative powers.**
2. House of representatives; qualification of members; apportionment of representatives and direct taxes; census; first apportionment; vacancies; officers of the house; impeachments.
3. Senate, classification of senators; qualifications of; vice president to preside; other officers; trial of impeachments.
4. Election of members of congress; time assembling of congress.
5. Powers of each house; punishment for disorderly Behaviour; journal; adjournments.
6. Compensation and privileges; disabilities of members.
7. Revenue bills; passage and approval of bills; orders and resolutions.
8. General powers of congress; borrowing of money; regulation of commerce; naturalization and bankruptcy; money; weights and measures; counterfeiting; post offices; patents and copyrights; inferior courts; piracies and felonies; war; marine and reprisal; armies; navy; land and naval forces; calling the militia; District of Columbia; to enact laws necessary to enforce the Constitution.
9. Limitations of congress; migration; writ of habeas corpus; bills of attainder and ex post facto laws prohibited; direct taxes; exports not to be taxed; interstate shipping; drawing money from the treasury; financial statements to be published; titles of nobility and favors from foreign powers prohibited.
10. Limitations of the individual states; no treaties; letters of marque and reprisal; no coining of money; bills of credit; not allowed to make any Thing but gold and silver Coin a tender in payment of debts; no bills of attainder; ex post facto Law or law implying the obligation of contracts; no titles of nobility; state imposts and duties; further restrictions on state powers.

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration hereinbefore directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State. No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another; nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States; and no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

Section 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque or Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be ab-

solutely necessary for executing its inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Control of the Congress.

No State shall, without the Consent of Congress, lay any Duty on Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

A R T I C L E I I

Section 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in

SEC. III INDEX TO THE ORIGINAL DOCUMENTS

In CONGRESS *Jan 4, 1776*
at Washington, in the 54th Session of America

GENERAL INDEX TO: THE UNANIMOUS DECLARATION

- I. Need to dissolve certain political relationships.
- II. Need to assume powers which God entitles man.
- III. Declaring separation from an unjust government.
- IV. Self-evident truths elaborated.
 - A. All men are created equal.
 - B. God our Creator gives to each unalienable Rights
 - I. Life, Liberty, Happiness, property, safety, respect, privacy, etc.
 - C. The purpose of government is to protect the weak from the strong.
 - D. Right and duty to abolish bad government.
 - I. Fact: The Revolution was not out of rebellion by the colonies, but rather England rebelled against God's Law by repeated injuries of usurpation and tyranny. The young colonies were forced to defend themselves against England's tyranny.
 - a. eg. Bad laws, bad courts, police state (swarms of soldiers), taxes without consent, deprived of trial by jury, deporting people for trial, England declared the colonies out of their protection, rights of individuals plundered.
 - b. The colonies repeatedly petitioned England, but only received repeated injury.
 - c. England was warned from time to time.
 - d. England was deaf to the voice of justice.
- V. The colonies appealed to God the Supreme Judge of the world.
- VI. The colonies right to be free and independent.
- VII. Under the protection of God they pledged their lives, fortunes and honor.

JEFFERSON'S WARNINGS!

In 1789 Thomas Jefferson warned that the judiciary if given too much power might ruin our REPUBLIC, and destroy our RIGHTS!

"The new Constitution has secured these [individual rights] in the Executive and Legislative departments: but not in the Judiciary. It should have established trials by the people themselves, that is to say, by jury." (emphasis added)

The Judiciary of the United States is the subtle corps of sappers and miners constantly working under ground to undermine the foundations of our confederated fabric." (1820)

"... the Federal Judiciary; an irresponsible body (for impeachment is scarcely a scarecrow), working like gravity by night and by day, gaining a little to-day and a little to-morrow, and advancing its noiseless step like a thief, over the field of jurisdiction, until all shall be usurped from the States, and the government of all be consolidated into one. . . . when all government . . . in little as in great things, shall be drawn to Washington as the centre of all power, it will render powerless the checks provided of one government on another and will become as venal and oppressive as the government from which we separated. (emphasis added 1821)

"The opinion which gives to the judges the right to decide what laws are constitutional and what not, not only for themselves in their own sphere of action, but for the legislative and executive also in their spheres, would make the judiciary a despotic branch.

"... judges should be withdrawn from the bench whose erroneous biases are leading us to dissolution. It may, indeed, injure them in fame or fortune; but it saves the Republic...."

the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority, and have an equal Number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like Manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representatives from each State having one Vote: A quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a Choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there shall remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes: which Day shall be the same throughout the United States.

No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the Presi-

dent from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said Office, the Same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my Ability, preserve, protect and defend the Constitution of the United States."

Section 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offenses against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the

prosecutor, William Penn most likely would have been executed as he clearly broke the law.

HE BROKE THE LAW!

Then there would have been no Liberty Bell, no Independence Hall, no city of Philadelphia, and no state called Pennsylvania, for young William Penn, founder of Pennsylvania, and leader of the Quakers, was on trial for his life. His alleged crime was preaching and teaching a different view of the Bible than that of the Church of England. This appears innocent today, but then, one could be executed for such actions. He believed in freedom of religion, freedom of speech and the right to peaceful assembly. He had broken the government's law, but he had injured no one. Those four heroic JURORS knew that only when actual injury to someone's person or property takes place is there a real crime. No law is broken when no injury can be shown. Thus there can be no loss or termination of rights unless actual damage is proven. Many imposter laws were repealed as a result of this case.

IT IS ALMOST UNFAIR!

This trial made such an impact that every colony but one established the jury as the first liberty to maintain all other liberties. It was felt that the liberties of people could never be wholly lost as long as the jury remained strong and independent, and that unjust laws and statutes could not stand when confronted by conscientious JURORS. JURORS today face an avalanche of imposter laws. JURORS not only still have the power and the RIGHT, but also the DUTY, to nullify bad laws by voting "not guilty". At first glance it appears that it is almost unfair, the power JURORS have over government, but necessary when considering the historical track record of oppression that governments have wielded over private citizens.

FREEDOM FOR WILLIAM PENN

"Those people who are not governed by GOD will be ruled by tyrants."

William Penn

Edward Bushell and three fellow **JURORS** learned this lesson well. They refused to bow to the court. They believed in the absolute power of the **JURY**, though their eight companions covered to the court. The four **JURORS** spent nine weeks of torture in prison, often without food or water, soaked with urine, smeared with feces, barely able to stand, and even threatened with fines, yet they would not give in to the judge. Edward Bushell said, "My liberty is not for sale," though he had great wealth and commanded an international shipping enterprise. These "bumble heads", so the court thought, proved the power of the people was stronger than any power of government. They emerged total victors.

THE FIRST AMENDMENT

The year was 1670, and the case Bushell sat on was that of William Penn, who was on trial for violation of the "Conventicle Act." This was an elaborate Act which made the Church of England the only legal church. The Act was struck down by their not guilty vote. **Freedom of Religion** was established and became part of the English Bill of Rights, and later it became the First Amendment to the U.S. Constitution. In addition, the **Right to peaceful assembly** was founded, **Freedom of Speech**, and also **habeas corpus**. The first such writ of habeas corpus ever issued by the Court of Common Pleas was used to free Edward Bushell. Later this trial gave birth to the concept of **Freedom of the press**.

Had Bushell and his colleagues yielded to the guilty verdict sought by the judge and

Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law; but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

Section 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

Section 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

A R T I C L E I I I

Section 1. The judicial Power of the United States, shall be vested in one

supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office.

Section 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; — to all Cases affecting Ambassadors, other public Ministers and Consuls; — to all Cases of admiralty and maritime Jurisdiction — to Controversies to which the United States shall be a Party; — to Controversies between two or more States; — between a State and Citizens of another State; — between Citizens of different States; — between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crime shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section 3. Treason against the United

local situation, have an opportunity to form a judgment of the CHARACTER of the person charged with the crime, and also to judge of the CREDIBILITY of the witnesses." (Elliot, 2:110).



"The people are the masters of both Congress and courts, not to overthrow the Constitution, but to overthrow the men who pervert it!"
Abraham Lincoln

MR. WILSON

Mr. Wilson, signer of "The unanimous Declaration," who also later became a supreme Court Justice, stressed the importance of the JURORS knowing personally both the defendant and the witnesses. "Where jurors can be acquainted with the characters of the parties and the witnesses — where the whole cause can be brought within their knowledge and their view — I know no mode of investigation equal to that by a trial by jury: they hear every thing that is alleged; they not only hear the words, but they see and mark the features of the countenance; they can judge of weight due to such testimony; and moreover, it is a cheap and expeditious manner of distributing justice. There is another advantage annexed to the trial by jury: the jurors may indeed return a mistaken or ill-founded verdict, but their errors cannot be systematical." (Elliot, 2:516).

JURY OF PEERS

Our forefathers felt that in order to have JUSTICE, it is obvious that a JURY of "PEERS" must be people who actually know the defendant. How else would they be able to judge motive and intent?

"PEERS" of the defendant, like the rights of the JURY have also been severely tarnished. Originally, it meant people of "equals in station and rank." (Black's 1910), "freeholders of a neighborhood," (Bouvier's 1886), or "A companion; a fellow; an associate." (Webster's 1828).

WHO HAS A RIGHT TO SIT ON A JURY?

Patrick Henry, along with others, was deeply concerned as to who has a right to sit on a JURY. Listen to our forefather's wisdom on the subject of "PEERS."

MR. HENRY

"By the bill of rights of England, a subject has a right to a trial by his peers. What is meant by his peers? Those who reside near him, his neighbors, and who are well acquainted with his character and situation in life." Patrick Henry, (Elliot, The Debates in the Several State Conventions on the Adoption of the Federal Constitution, 3:579).

Patrick Henry also knew that originally the JURY of PEERS was designed as a protection for Neighbors from outside governmental oppression. Henry states the following, "Why do we love this trial by jury? Because it prevents the hand of oppression from cutting you off . . . This gives me comfort — that, as long as I have existence, my neighbors will protect me." (Elliot, 3:545, 546).

MR. HOLMES

Mr. Holmes, from Massachusetts, argued strenuously that for JUSTICE to prevail, the case must be heard in the vicinity where the fact was committed by a JURY of PEERS. ". . . a jury of the peers would, from their

States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attained.

A R T I C L E I V

Section 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

Section 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within

the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needed Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be construed as to Prejudice any Claims of the United States, or of any particular State.

Section 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

A R T I C L E V

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

SEC. II GIVE ME LIBERTY OR GIVE ME DEATH!

PATRICK HENRY SHOCKED!

Young Christian attorney Patrick Henry saw why a JURY of PEERS is so vital to FREEDOM! It was March 1775 when he rode into the small town of Culpeper, Va. He was totally shocked by what he saw! There, in the middle of the town square was a minister tied to a whipping post, his back laid bare and bloody with the bones of his ribs showing. He had been scourged mercilessly like JESUS, with whips laced with metal.

Patrick Henry is quoted as saying: "When they stopped beating him, I could see the bones of his rib cage. I turned to someone and asked what the man had done to deserve such a beating as this."

SCOURGED FOR NOT TAKING A LICENSE!

The reply given him was that the man being scourged was a minister who refused to take a license. He was one of twelve who were locked in jail because they refused to take a license. A license often becomes an arbitrary control by government that makes a crime out of what ordinarily would not be a crime. IT TURNS A RIGHT INTO A PRIVILEGE!

Three days later they scourged him to death.

This was the incident which sparked Christian attorney Patrick Henry to write the famous words which later became the rallying cry of the Revolution. "What is that Gentlemen wish? What would they have? Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take, but as for me, GIVE ME LIBERTY OR GIVE ME DEATH!" Later he made this part of his famous speech at St. John's Episcopal Church in Richmond, VA.

YOUR VOTE COUNTS!

Your vote of NOT GUILTY must be respected by all other members of the **JURY** — it is the **RIGHT** and the **DUTY** of a **JUROR** to **Never, Never, Never** yield his or her sacred vote — for you are not there as a fool, merely to agree with the majority, but as an officer of the court and a qualified judge in your own right. Regardless of the pressures or abuse that may be heaped on you by any other members of the **JURY** with whom you may in good conscience disagree, you can await the reading of the verdict secure in the knowledge you have voted your own conscience and convictions — and not those of someone else.

YOU ARE NOT A RUBBER STAMP!

By what logic do we send our youth to battle tyranny on foreign soil, while we refuse to do so in our courts? Did you know that many of the planks of the "Communist Manifesto" are now represented by law in the U.S.? How is it possible for Americans to denounce communism and practice it simultaneously.

The JURY judges the Spirit, Motive and Intent of both the law and the Accused, whereas the prosecutor only represents the letter of the law.

Therein lies the opportunity for the accomplishment of "LIBERTY and JUSTICE for ALL." If you, and numerous other **JURORS** throughout the State and Nation begin and continue to bring in verdicts of **NOT GUILTY** in such cases where a man-made statute is defective or oppressive, these statutes will become as ineffective as if they had never been written.

"If ye love wealth better than liberty, the tranquility of servitude better than the animating contest of freedom, go home from us in peace. We ask not your counsels or your arms. Crouch down and lick the hands which feed you. May your chains set lightly upon you, and may posterity forget that ye were our countrymen." 14 Samuel Adams

A R T I C L E V I

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

A R T I C L E V I I

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

Done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth IN WITNESS whereof We have hereunto subscribed our Names,

GEORGE WASHINGTON, President,
And Deputy from Virginia,

**In CONVENTION,
Monday, September 17th, 1787.
PRESENT**

The States of New-Hampshire, Massachusetts, Connecticut, Mr. Hamilton from New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina and Georgia:

RESOLVED,

That the preceding Constitution be laid before the United States in Congress assembled, and that it is the opinion of this Convention, that it should afterwards be submitted to a Convention of Delegates, chosen in each State by the People thereof, under the Recommendation of its Legislature, for their Assent and Ratification; and that each Convention assenting to, and ratifying the Same, should give Notice thereof to the United States in Congress assembled.

Resolved, That it is the Opinion of this Convention, that as soon as the Conventions of nine States shall have ratified this Constitution, the United States in Congress assembled should fix a Day on which Electors should be appointed by the States which shall have ratified the same, and a Day on which the Electors should assemble to vote for the President, and the Time and Place for commencing Proceedings under this Constitution. That after such Publication the Electors should be appointed, and the Senators and Representatives elected: That the Electors should meet on the Day fixed for the Election of the President, and should transmit their Votes certified, signed, sealed and directed, as the Constitution requires, to the Secretary of the United States in Congress assembled, that the Senators and Representatives

LAWS, FACTS AND EVIDENCE!

Without the power to decide what facts, law and evidence are applicable, JURIES cannot be a protection to the accused. If people acting in the name of government are permitted by JURORS to dictate any law whatever, they can also unfairly dictate what evidence is admissible or inadmissible and thereby prevent the **WHOLE TRUTH** from being considered. Thus if government can manipulate and control both the law and evidence, the issue of fact becomes virtually irrelevant. In reality, true **JUSTICE** would be denied leaving us with a trial by government and not a trial by **JURY!**

HOW DOES TYRANNY BEGIN?

WHY ARE THERE SO MANY LAWS?

Heroes are men of glory who are so honored because of some heroic deed. People often out of gratitude yield allegiance to them. Honor and allegiance are nice words for power! Power and allegiance can only be held rightfully by trust as a result of continued character.

When people acting in the name of government violate ethics, they break trust with **"WE THE PEOPLE."** The natural result is for **"WE THE PEOPLE"** to pull back power (honor and allegiance).

The loss of power creates fear for those losing the power. Fearing the loss of power, people acting in the name of government often seek to regain or at least hold their power. Hence, to legitimize their quest for control, laws and force are often instituted.

Unchecked power is the foundation of tyranny. It is the **JUROR'S** duty to use the **JURY ROOM** as a vehicle to stem the tide of oppression and tyranny: To prevent bloodshed by peacefully removing power from those who have abused it. The **JURY** is the primary vehicle for the peaceable restoration of **LIBERTY, POWER AND HONOR TO "WE THE PEOPLE!"**

The Right of the JURY to be Told of Its Power

Almost every JURY in the land is falsely instructed by the judge when it is told it must accept as the law that which is given to them by the court, and that the JURY can decide only the facts of the case. This is to destroy the purpose of a Common Law JURY, and to permit the imposition of tyranny upon a people.

"There is nothing more terrifying than ignorance in action."

Goethe
— engraved on a plaque at the Naval War College

"To embarrass justice by a multiplicity of laws, or to hazard it by confidence in judges, are the opposite rocks on which all civil institutions have been wrecked."

Johnson — engraved in
Minnesota State Capitol
Outside the Supreme Court Chambers

"... The letter killeth, but the spirit giveth life."

II Corinthians 3:6

"It is error alone which needs the support of government. Truth can stand by itself."

Thomas Jefferson

The JURY'S options are by no means limited to the choices presented to it in the courtroom. "The jury gets its understanding as to the arrangements in the legal system from more than one voice. There is the formal communication from the 'judge.' There is the informal communication from the total culture — literature, current comment, conversation; and, of course, history and tradition."

(Dougherty, cited above, at 1135.)

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should convene at the Time and Place assigned; that the Senators should appoint a President of the Senate, for the sole Purpose of receiving, opening and counting the Votes for President; and, that after he shall be chosen, the Congress, together with the President, should, without Delay, proceed to execute this Constitution.

By the Unanimous Order of the Convention,

GEORGE WASHINGTON, President.
William Jackson, Secretary.

The BILL OF RIGHTS

As provided in the FIRST TEN
AMENDMENTS
TO THE CONSTITUTION OF THE
UNITED STATES
Effective December 15, 1791

Articles in addition to, and Amendment of the Constitution of the United States of America, proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth Article of the original Constitution.

PREAMBLE

The conventions of a number of the States having at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added: And as extending the ground of public confidence in the Government, will best insure the beneficent ends of its institution.

ARTICLE I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the

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freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

ARTICLE II

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

ARTICLE III

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

ARTICLE IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

JURY TAMPERING?

A JURY'S Rights, Powers and Duties:

The Charge to the JURY in the First JURY Trial before the supreme Court of the U. S. illustrates the TRUE POWER OF THE JURY. In the February term of 1794, the supreme* Court conducted a JURY trial and said "... it is presumed, that the juries are the best judges of facts; it is, on the other hand, presumed that the courts are the best judges of law. But still both objects are within your power of decision."

"You have a right to take upon yourselves to judge of both, and to determine the law as well as the fact in controversy."

(State of Georgia vs. Brailsford, et al, 3 Dall. 1)

"The JURY has an unreviewable and unreviewable power . . . to acquit in disregard of the instructions on the law given by trial judge . . ." (emphasis added)

U.S. vs. Dougherty, 473 F 2nd 1113, 1139 (1972)

Hence, JURY disregard of the limited and generally conviction-oriented evidence presented for its consideration, and JURY disregard for what the trial judge wants them to believe is the controlling law in any particular case (sometimes referred to as "JURY lawlessness")* is not something to be scrupulously avoided, but rather encouraged. Witness the following quotation from the eminent legal authority above-mentioned: "Jury lawlessness is the greatest corrective of law in its actual administration. The will of the state at large imposed on a reluctant community, the will of a majority imposed on a vigorous and determined minority, find the same obstacle in the local JURY that formerly confronted kings and ministers." (emphasis added)

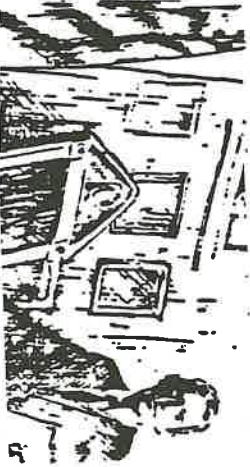
(Dougherty, cited above, note 32, at 1130.)

*Supreme is not capitalized in the Constitution, however Behavior is Art. III.

*Jury lawlessness means willingness to nullify bad law.

INALIENABLE, [UNALIENABLE] OR NATURAL RIGHTS!

NATURAL RIGHTS ARE THOSE RIGHTS such as LIFE (from conception), LIBERTY and the PURSUIT OF HAPPINESS, eg. FREEDOM OF RELIGION, SPEECH, LEARNING, TRAVEL, SELF-DEFENSE, ETC. Hence laws and statutes which violate NATURAL RIGHTS, though they have the color of law, are not law but impostors! The U.S. Constitution was written to protect these NATURAL RIGHTS from being tampered with by legislators. * Further, our forefathers also wisely knew that the U.S. Constitution would be utterly worthless to restrain government legislators unless it was clearly understood that the people had the right to compel the government to keep within the Constitutional limits.



In a jury trial the real judges are the JURORS! Surprisingly, judges are actually just referees bound by the Constitution!

*Lysander Spooner wrote as follows:

"Government is established for the protection of the weak against the strong. This is the principal, if not the sole motive for the establishment of all legitimate government. It is only the weaker party that lose their liberties, when a government becomes oppressive. The stronger party, in all governments are free by virtue of their superior strength. They never oppress themselves. Legislation is the work of this stronger party; and if, in addition to the sole power of legislation, they have the sole power of determining what legislation shall be enforced, they have all power in their hands, and the weaker party are the subjects of an absolute government. Unless the weaker party have a veto, they have no power whatever in the government and . . . no liberties. . . . The trial by jury is the only institution that gives the weaker party any veto upon the power of the stronger. Consequently it is the only institution that gives them any effective voice in the government, or any guaranty against oppression."

Essay on the Trial by Jury

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ARTICLE VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of Counsel for his defence.

ARTICLE VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

ARTICLE VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

ARTICLE X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI

The Judicial power of the United

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States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

ARTICLE XII

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate: — The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; — The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President

GIVE UP RIGHTS FOR THE “COMMON GOOD”?

Where the people fear the government you have tyranny; where the government fears the people, you have liberty.

Politicians, bureaucrats and especially judges would have you believe that too much freedom will result in chaos. Therefore, we should gladly give up some of our RIGHTS for the good of the community. In other words, people acting in the name of government, say we need more laws and more JURORS to enforce these laws — even if we have to give up some RIGHTS in the process. They believe the more laws we have, the more control, thus a better society. This theory may sound good on paper, and apparently many of our leaders think this way, as evidenced by the thousands of new laws that are added to the books each year in this country. But, no matter how cleverly this Marxist argument is made, the hard fact is that whenever you give up a RIGHT you lose a “FREE CHOICE”!

This adds another control. Control's real name is BONDAGE! The logical conclusion would be, if giving up some RIGHTS produces a better society, then by giving up all RIGHTS we could produce the perfect society. We could chain everybody to a tree, for lack of TRUST. This may prevent a crime, but it would destroy PRIVACY, which is the heartbeat of FREEDOM! It would also destroy TRUST which is the foundation for DIG-NITY. Rather than giving up RIGHTS, we should be giving up wrongs! The opposite of control is not chaos. More laws do not make less criminals! We must give up wrongs, not rights, for a better society! William Pitt of the British House of Commons once proclaimed, “Necessity is the plea for every infringement of human liberty; it is the argument of tyrants; it is the creed of slaves.”

A SUMMARY OF THE TEN COMMANDMENTS

**The TEN COMMANDMENTS represent
GOD'S GOVERNMENT OVER MAN! GOD**
commands us for our own good to give up wrongs
and not rights! **HIS** system always results in
LIBERTY and **FREEDOM!** The Constitution and
the Bill of Rights are built on this foundation, which
provides for punitive justice. It is not until one
damages another's person or property that he can be
punished. The Marxist system leads to bondage and
GOD'S system leads to **LIBERTY!** Read very
carefully:

1. Thou shalt have no other gods before Me.
2. Thou shalt not make unto thee any graven image.
3. Thou shalt not take the name of the Lord thy God in vain.
4. Remember the Sabbath to keep it Holy.
5. Honor thy father and mother.
6. Thou shalt not murder.
7. Thou shalt not commit adultery.
8. Thou shalt not steal.
9. Thou shalt not bear false witness.
10. Thou shalt not covet.

Directly above the Chief Justice's chair is a tablet signifying the **TEN COMMANDMENTS**. When the Speaker of the House in the U.S. Congress looks up, his eyes look into the face of Moses. "The Bible is the Book upon which this Republic rests."
— Andrew Jackson, Seventh President of the United States

"The moral principles and precepts contained in the Scriptures ought to form the basis of all our civil constitutions and laws. All the miseries and evils which men suffer from vice, crime, ambition, injustice, oppression, slavery, and war, proceed from their despising or neglecting the precepts contained in the Bible." — Noah Webster

A SUMMARY OF THE COMMUNIST MANIFESTO

The Communist Manifesto represents a misguided philosophy, which teaches the citizens to give up their **RIGHTS** for the sake of the "common good," but it always ends in a police state. This is called preventive justice. Control is the key concept. Read carefully:

1. Abolition of private property.
2. Heavy progressive income tax.
3. Abolition of all rights of inheritance.
4. Centralization of property of all emigrants and rebels.
5. Central bank.
6. Government control of Communications & Transportation.
7. Government ownership of factories and agriculture.
8. Government control of labor.
9. Corporate farms, regional planning.
10. Government control of education.

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whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.—The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

ARTICLE XIII

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United

LAW OF THE LAND

The general misconception is that any statute passed by legislators bearing the appearance of law constitutes the law of the land. The U. S. Constitution is the supreme law of the land, and any statute, to be valid, must be in agreement. It is impossible for a law which violates the Constitution to be valid. This is succinctly stated as follows:

"All laws which are repugnant to the Constitution are null and void," *Marbury vs. Madison*, 5 US (2 Cranch) 137, 174, 176, (1803)

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them," *Miranda vs. Arizona*, 384 US 436 p. 491.

"An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed."

Norton vs. Shelby County
118 US 425 p. 442

The general rule is that an unconstitutional statute, though having the form and name of law, is in reality no law, but is wholly void, and ineffective for any purpose; since unconstitutionality dates from the time of its enactment, and not merely from the date of the decision so branding it.

"No one is bound to obey an unconstitutional law and no courts are bound to enforce it."

16 Am Jur 2d, Sec 177
late 2d, Sec 256

One JUROR can stop tyranny with a "NOT GUILTY VOTE!" He can nullify bad law in any case, by "HANGING THE JURY!"

I am only one, but I am one. I cannot do everything, but I can do something. What I can do, I should do and, with the help of God, I will do!

Everett Hale



The only power the judge has over the JURY is their ignorance!

"WE THE PEOPLE," must relearn a desperately needed lesson in civics.

The truth of this question has been answered by many testimonies and historical events. Consider the following:

JURY RIGHTS

"The jury has a right to judge both the law as well as the fact in controversy."

John Jay, 1st Chief Justice
U.S. Supreme Court, 1789

"The jury has the right to determine both the law and the facts."

Samuel Chase, U.S. Supreme Court Justice,
1796, Signer of The unanimous Declaration

"The jury has the power to bring a verdict in the teeth of both law and fact."

Oliver Wendell Holmes,
U.S. Supreme Court Justice, 1902.

"The law itself is on trial quite as much as the cause which is to be decided."

Harlan F. Stone, 12th Chief Justice
U.S. Supreme Court, 1941.

"The pages of history shine on instances of the jury's exercise of its prerogative to disregard instructions of the judge . . ."

U.S. vs. Dougherty, 473 F 2nd 1113, 1139,
(1972).

States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XVI

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

ARTICLE XVII

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislatures.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the Legislature of any State

may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the Legislature may direct.

This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

ARTICLE XVIII

Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

ARTICLE XIX

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XX

Section 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of

paper article appearing in its November 30, 1984 edition, entitled: "What judges don't tell the juries" stated:

"At the time of the adoption of the Constitution, the jury's role as defense against political oppression was unquestioned in American jurisprudence. This nation survived until the 1850's, when prosecutions under the Fugitive Slave Act were largely unsuccessful because juries refused to convict."

"Then judges began to erode the institution of free juries, leading to the absurd compromise that is the current state of the law. While our courts uniformly state juries have the power to return a verdict of not guilty whatever the facts, they routinely tell the jurors the opposite."

"Further, the courts will not allow the defendants or their counsel to inform the jurors of their true power. A lawyer who made . . . Hamilton's argument would face professional discipline and charges of contempt of court."

"By what logic should juries have the power to acquit a defendant but no right to know about that power? The court decisions that have suppressed the notion of jury nullification cannot resolve this paradox."

"More than logic has suffered. As originally conceived, juries were to be a kind of safety valve, a way to soften the bureaucratic rigidity of the judicial system by introducing the common sense of the community. If they are to function effectively as the 'conscience of the community,' jurors must be told that they have the power and the right to say no to a prosecution in order to achieve a greater good. To cut jurors off from this information is to undermine one of our most important institutions."

"Perhaps the community should educate itself. Then citizens called for jury duty could teach the judges a needed lesson in civics."

This booklet is designed to bring to your attention one important way our nation's founders provided to insure that you, (not the growing army of politicians, judges, lawyers, and bureaucrats) rule this nation. It will focus on the true power you possess as a **JUROR**, how you got it, why you have it, and remind you of the basis on which you must decide not only the facts placed in evidence but also the validity or applicability of every law, rule, regulation, ordinance, or instruction given by any man seated as a judge or attorney when you serve as a **JUROR**.

earth have ever had in controlling those appointed to serve them in government.

The second vote comes when you serve on a Grand Jury. Before anyone can be brought to trial for a capital or infamous crime by those acting in the name of government, permission must be obtained from people serving on the Grand Jury! The **Minneapolis Star and Tribune** in March 27, 1987, edition noted a purpose of the Grand Jury this way: "A grand jury's purpose is to protect the public from an overzealous prosecutor."

The third is the most powerful vote: this is when you are acting as a jury member during a courtroom trial. At this point, "the back slope" with you! It is in this setting that each **JUROR** has **MORE POWER** than the President, all of Congress, and all of the judges combined! Congress can legislate (make law), the President or some other bureaucrat can make an order or issue regulations, and judges may instruct or make a decision, but no **JUROR** can ever be punished for voting "Not Guilty!" Any **JUROR** can, with impunity, choose to disregard the instructions of any judge or attorney in rendering his vote. If only one **JUROR** should vote "Not Guilty" for any reason, there is no conviction and no punishment at the end of the trial. Thus, those acting in the name of government must come before the common man to get permission to enforce a law.

YOU ARE ABOVE THE LAW!

As a **JUROR** in a trial setting, when it comes to your individual vote of innocent or guilty, you truly are answerable only to **GOD ALMIGHTY**. The First Amendment to the Constitution was born out of this great concept. However, judges of today refuse to inform **JURORS** of their **RIGHTS**. The **Minneapolis Star and Tribune** in a news

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Senators and Representatives at noon on the 3rd day of January, of the year in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

Section 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3rd day of January, unless they shall by law appoint a different day.

Section 3. If, at the time fixed for the beginning of the term of the President, the President elect shall have died, the Vice President shall not have been chosen before the time fixed for the beginning of his term, or if the President elect shall have failed to qualify, then the Vice President elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President elect nor a Vice President elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

Section 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

Section 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

Section 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the

legislatures of three-fourths of the several States within seven years from the date of its submission.

ARTICLE XXI

Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Section 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Section 3. This article shall be operative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

ARTICLE XXII

Section 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this article shall not apply to any person holding the office of President when this article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this article becomes operative from holding the office of President or acting as President during the remainder of such term.

Section 2. This article shall be operative unless it shall have been ratified

"let George do it" philosophy. This always brings **DEPENDENCY**. For a period of time, dependents are often not aware they are dependent. They delude themselves by thinking that they are still free — "We never had it so good." — "We can still vote, can't we? Eventually abundance diminishes and **DEPENDENCY** becomes known by its true nature: **BONDAGE!!!**

There are a few ways out of bondage. Bloodshed and war often result, but our founding fathers learned of a better way. Realizing that a **CREATOR** is always above and greater than that which He creates, they established a three vote system by which an informed citizenry can control those acting in the name of government. To be a good master you must always remember the true "pecking order" or chain of command in this nation:

1. **GOD** created man . . .
2. Man (that's you) created the Constitution . . .
3. Constitution created government . . .
4. Government created corporations . . .
etc.

The base of power was to remain in **WE THE PEOPLE** but unfortunately, it was lost to those leaders acting in the name of government, such as politicians, bureaucrats, judges, lawyers, etc.

As a result America began to function like a democracy instead of a **REPUBLIC**. A democracy is dangerous because it is a one-vote system as opposed to a Republic, which is a three-vote system: Three votes to check tyranny, not just one. American citizens have not been informed of their other two votes.

Our first vote is at the polls on election day when we pick those who are to represent us in the seats of government. But what can be done if those elected officials just don't perform as promised or expected? Well, the second two votes are the most effective means by which the common people of any nation on

SEC. I A HANDBOOK FOR JURORS



"... THAT THIS NATION, UNDER GOD, SHALL
HAVE A NEW BIRTH OF FREEDOM..."

Abraham Lincoln

JURY DUTY!

The purpose of this booklet is to revive, as Jefferson put it, "The Ancient Principles." It is not designed to promote lawlessness or a return to the jungle. The "Ancient Principles" refer to the Ten Commandments and the Common Law. The Common Law is, in simple terms, just plain common sense and has its roots in the Ten Commandments.

In 1776 we came out of **BONDAGE** with **FAITH, UNDERSTANDING** and **COURAGE**. Even against great odds, and with much bloodshed, we battled our way to achieve **LIBERTY. LIBERTY** is that delicate area between the force of government and **FREEWILL** of man. **LIBERTY** brings **FREEDOM** of choice to work, to trade, to go and live wherever one wishes; it leads to **ABUNDANCE. ABUNDANCE**, if made an end in itself, will result in **COMPLACENCY** which leads to **APATHY. APATHY** is the

as an amendment to the Constitution by the legislatures of three-fourths of the several states within seven years from the date of its submission to the states by the Congress.

ARTICLE XXIII

Section 1. The District constituting the seat of Government of the United States shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the twelfth Article of Amendment.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XXIV

Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XXV

Section 1. In case of the removal of

the President from office or of his death or resignation, the Vice President shall become President.

Section 2. Whenever there is a vacancy in the office of the Vice President, the President shall nominate a Vice President who shall take the office upon confirmation by a majority vote of both houses of Congress.

Section 3. Whenever the President transmits to the President Pro Tempore of the Senate and the Speaker of the House of Representatives his written declaration that he is unable to discharge the powers and duties of his office, and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Vice President as Acting President.

Section 4. Whenever the Vice President and a majority of either the principal officers of the executive departments or of such other body as Congress may by law provide, transmit to the President Pro Tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President Pro Tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of either the principal officers of the executive department or of such other body as Congress may by law provide, transmit within four days to the President Pro Tempore of the Senate and the Speaker of the House of

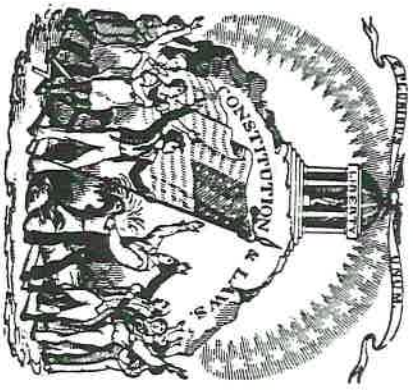
RIGHTS COME FROM GOD, NOT THE STATE!

"You have rights antecedent to all earthly governments; rights that cannot be repealed or restrained by human laws; rights derived from the Great Legislator of the Universe."

John Adams, Second President
of the United States

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LINCOLN said

“Study the Constitution!”

“Let it be preached from the pulpit, proclaimed in legislatures, and enforced in courts of justice.”

Representatives their written declaration that the President is unable to discharge the powers and duties of his office. Thereupon Congress shall decide the issue, assembling within 48 hours for that purpose if not in session. If the Congress, within 21 days after receipt of the latter written declaration, or if Congress is not in session, within 21 days after Congress is required to assemble, determines by two-thirds vote of both houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.

ARTICLE XXVI

Section 1. The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XXVII

No law, varying the compensation for the services of the Senators and Representatives, shall take effect until an election of Representatives shall have intervened.

“The poorest man may, in his cottage, bid defiance to all the forces of the Crown. It may be frail, its roof may shake; the wind may blow through it; the storm may enter; the rain may enter; but the King of England may not enter; all his force dares not cross the threshold of the ruined tenement.”

This neglected warning was sounded by William Pitt before the British House of Commons addressing the need for **PRIVACY** - the protection of **LIFE**, **LIBERTY** and **HAPPINESS**. Will it again go unheeded?

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PROCLAIM LIBERTY!

Inscribed on our hallowed LIBERTY BELL are these words "PROCLAIM LIBERTY THROUGHOUT ALL THE LAND UNTO ALL THE INHABITANTS THEREOF."

LEV. XXV X

"Government is not reason; it is not eloquence; it is force! Like fire, it is a dangerous servant and a fearful master."

George Washington

"Woe to those who decree unjust statutes and to those who continually record unjust decisions, to deprive the needy of justice, and to rob the poor of My people of their rights. . ."

Isaiah 10:1,2

TAKING THE PLUNGE!

"My people are destroyed for lack of knowledge . . .!"

Hosea 4:6

"The only thing necessary for evil to triumph is for good men to do nothing."

Edmund Burke 1729-1797

"If My people which are called by My name, shall humble themselves, and pray, and seek My face, and turn from their wicked ways; then will I hear from Heaven, and will forgive their sin, and will heal their land."

II Chron. 7:14

"We must obey GOD rather than men."
Acts 5:29

WARNING:

THIS DOCUMENT MAY BE HAZARDOUS TO BAD LAWS. Courts may not welcome or approve of these truths, neither are they to be construed as legal advice. Therefore, to act on these facts is to do so at your own risk or opportunity.

CITIZENS RULE BOOK

A Palladium of Liberty



BILL OF RIGHTS

JURY HANDBOOK

The Fireworks are in the Document itself:
READ THE CONSTITUTION!

Capitola City Council Agenda Report

Meeting: October 26, 2023

From: City Manager Department

Subject: City Council Meeting Minutes



Recommended Action: Approve minutes from the regular meeting on October 12, 2023.

Background: Attached for Council review and approval are the draft minutes from the regular City Council meeting on October 12, 2023.

Attachments:

1. 10/12/2023 Minutes

Report Prepared By: Julia Gautho, City Clerk

Approved By: Jamie Goldstein, City Manager

City of Capitola

City Council Meeting Minutes

Thursday, October 12, 2023 – 6:00 PM



City Council Chambers
420 Capitola Avenue, Capitola, CA 95010

Mayor: Margaux Keiser
Vice Mayor: Kristen Brown
Council Members: Yvette Brooks, Joe Clarke, Alexander Pedersen

Regular Meeting of the Capitola City Council – 6 PM

1. **Roll Call and Pledge of Allegiance** – *The meeting was called to order at 6:00 PM. In attendance: Council Members Brooks, Clarke, Pedersen, Vice Mayor Brown, and Mayor Keiser.*
2. **Additions and Deletions to the Agenda** – *Item 3A was removed from the agenda by staff.*
3. **Presentations**
 - A. Unmanned Aerial Vehicle Presentation *(Removed from the agenda by staff)*
4. **Additional Materials**
 - A. *Two emails were received relating to Item 8B.*
 - B. *One email was received relating to Item 7G.*
5. **Oral Communications by Members of the Public**
 - *Gorin Klepich, resident, spoke about panhandling activity within Capitola city limits.*
 - *Gary Richard Arnold, resident, spoke about the history of California lobbyist groups.*
 - *James Whitman, resident, spoke about City Council/City Manager forms of government.*
6. **Staff / City Council Comments**
 - *Police Chief Dally introduced Ranger, the newest Police Canine.*
 - *Vice Mayor Brown thanked staff for preparing the Tobacco Waste Resolution and requested an agenda item and resolution against banning books and materials in the Santa Cruz Public Libraries system.*
 - *Council Member Clarke reminded the public of the Oktoberfest event benefiting CWEP on October 14th.*
 - *Council Member Brooks provided a report on her attendance at the League of California Cities Annual Conference, thanked Police Department staff for their coordination on the Youth Action Network collaboration at the Capitola Mall, and requested a staff presentation on the Police Chief's Advisory Council selection and appointment process.*
 - *Mayor Keiser requested that staff provide more background information on the Police Chief's Advisory Council formation.*
7. **Consent Items**
 - A. City Council Meeting Minutes
Recommended Action: Approve minutes from the regular meeting on September 28, 2023.

- B. City Check Registers
Recommended Action: Approve City check registers dated September 1, 2023 and September 15, 2023.
- C. Tobacco Waste
Recommended Action: Adopt a resolution recognizing tobacco waste as a public health and environmental threat.
- D. Donations Report
Recommended Action: Receive the FY 2022-23 Annual Donations and Contributions Report.
- E. Master Agreement for State-Funded Transportation Projects
Recommended Action: Adopt a resolution authorizing the City Manager to execute Agreement No. 05-5304S21 with the California Department of Transportation to continue to receive State funds for transportation related projects and authorizing the Public Works Director to execute all program supplement agreements as required by Agreement No. 05-5304S21.
- F. Body-Worn Cameras and Tasers
Recommended Action: Authorize the City Manager to execute a 5-year agreement with AXON in an amount not to exceed \$336,500 to purchase body-worn cameras and tasers; and authorize the surplus of current inventory of tasers and body cameras.
- G. Travel Reimbursement for City Councilmembers
Recommended Action: Accept report on attendance at the 2023 League of California Cities Annual Conference from Alexander Pedersen, in accordance with Government Code Section 53232.3.

Motion to approve the Consent Calendar: Council Member Pedersen

Seconded: Council Member Brooks

Voting Yea: Council Members Brooks, Clarke, Pedersen, Vice Mayor Brown, Mayor Keiser

8. General Government / Public Hearings

- A. Cliff Drive Resiliency Project
Recommended Action: Authorize the City Manager to execute a Professional Services Agreement with CSW/Stuber-Stroeh Engineering Group, Inc. for professional planning, permitting, and design services for the Cliff Drive Resiliency Project in the amount of \$1,193,700 in substantially similar form, as approved by the City Attorney, as the attached agreement; and adopt a resolution amending the FY 2023-24 Budget to accept and appropriate grant funding from the California Coastal Commission and Federal Highway Administration.

Public Works Director Kahn presented the staff report.

Public Comments:

- ***James Whitman, resident, provided public comment.***

Motion to authorize the City Manager to execute a Professional Services Agreement with CSW/Stuber-Stroeh, and adopt a resolution amending the FY 2023-24 budget: Council Member Brooks

Seconded: Vice Mayor Brown

Voting Yea: Council Members Brooks, Clarke, Pedersen, Vice Mayor Brown, Mayor Keiser

- B. Housing Element Update
Recommended Action: Accept presentation and direct staff to incorporate Planning Commission and the California Department of Housing and Community Development recommendations into the Draft Housing Element update in preparation for adoption hearings.

Community Development Director Herlihy presented the staff report.

Public Comments:

- **James Whitman, resident, inquired what YIMBY meant.**
- **Janine Roth, SC YIMBY, thanked staff for their collaboration on the Housing Element.**

Council Member comments included acknowledgement of the inclusion of local labor recommendations, collaboration with AMBAG for transit-oriented development, support for the Planning Commission’s recommended changes, and thanked staff for their work on the Housing Element.

**Motion to direct staff to incorporate recommendations from YIMBY, HCD, and the Capitola Planning Commission into the Housing Element: Council Member Brooks
Seconded: Council Member Pedersen**

Voting Yea: Council Members Brooks, Clarke, Pedersen, Vice Mayor Brown, Mayor Keiser

9. Adjournment – *Adjourned at 7:04 PM to the next regularly scheduled meeting on October 26, 2023, at 6:00 PM.*

ATTEST:

Margaux Keiser, Mayor

Julia Gautho, City Clerk

Capitola City Council

Agenda Report



Meeting: October 26, 2023

From: City Manager Department

Subject: Resolution Against Banning Materials

Recommended Action: Adopt a resolution against banning books and materials in the Santa Cruz Public Library system.

Background: The Santa Cruz Public Libraries (SCPL) system delivers information, education, and enrichment through a network of ten neighborhood libraries. In addition, SCPL maintains a web-based digital library, a Bookmobile, and community-based programming. Residents can explore a wide range of interests from academic research, book clubs and literacy programs to digital photography, locally produced music, and local history.

The City of Capitola is home to a Santa Cruz County Public Library, located at 2005 Wharf Road. The library has been open since 2021. Other branch locations include Aptos, Boulder Creek, Branciforte, Downtown Santa Cruz, Felton, Garfield Park, La Selva Beach, Live Oak and Scotts Valley.

On October 12, 2023, City Council Member Brown requested that staff bring forward a resolution against the banning of books and materials at the Santa Cruz Public Libraries system.

Discussion: The City of Capitola supports the Santa Cruz Public Libraries' values of relevance, inclusiveness, community engagement, responsive service, and safe environment. According to the American Library Association (ALA), there were 32 attempts in California to restrict access to books in 2022. The City of Capitola supports the SCPL's commitment to provide open access and information, as well as allowing free inquiry, and opposes banning books and materials.

Fiscal Impact: There is no fiscal impact associated with the proposed resolution.

Attachments:

1. Resolution

Report Prepared By: Julia Gautho, City Clerk

Approved By: Jamie Goldstein, City Manager

RESOLUTION NO. XXXX**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
AGAINST BANNING BOOKS AND MATERIALS IN THE SANTA CRUZ PUBLIC LIBRARIES
SYSTEM**

WHEREAS, the role of libraries is to provide works and information reflective of diverse perspectives and lived experiences; and

WHEREAS, the Santa Cruz Public Library's Strategic Plan for 2022-2025 has a goal to "create an organizational culture of equity and inclusion and provide equitable and relevant services to all;" and

WHEREAS, we appreciate our library staff who are often on the front lines of the fight for the freedom to read; and

WHEREAS, according to the American Library Association (ALA), there were 1,269 attempts to censor materials in public libraries in 2022, nearly double the previous year; and

WHEREAS, according to the ALA, there were 32 attempts in California to restrict access to books in 2022, covering 87 titles, with the most challenged titles being Gender Queer: A Memoir and Beyond Magenta: Transgender Teens Speak Out; and

WHEREAS, according to the Office for Intellectual Freedom at the ALA, six of the top seven titles requested to be banned nationwide in 2022 featured LGBTQ+ content (the seventh was Toni Morrison's The Bluest Eye); and

WHEREAS, book banning is incompatible with a healthy democracy;

WHEREAS, governing bodies in Missouri, Virginia, Arkansas, Texas, Florida, and others have endorsed banning books and have defunded public libraries or threatened to cut funding for public libraries who do not comply.

NOW, THEREFORE, MAY IT BE RESOLVED, that the City of Capitola supports the Library Advisory Commission's commitment to open access and information as well as allowing free inquiry throughout the Santa Cruz Public Library system, and opposes banning books and materials.

MAY IT BE FURTHER RESOLVED, that the City Council of the City of Capitola affirms that library funding will not be affected by choices in material selection.

I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the City Council of the City of Capitola on the XX day of XX, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Margaux Keiser, Mayor

ATTEST:

Julia Gautho, City Clerk

Capitola City Council

Agenda Report

Meeting: October 26, 2023
From: Public Works Department
Subject: CalRecycle Grant Programs



Recommended Action: Adopt a resolution authorizing the application for grant funds from the California Department of Resources, Recycling, and Recovery (CalRecycle).

Background: The California Department of Resources, Recycling, and Recovery (CalRecycle) administers various statewide recycling and waste management programs aimed at promoting increased recycling and reducing litter in the waste stream.

Over the last 18 years, the City of Capitola has received over \$150,000 in grant funds from CalRecycle. These grant funds have been applied to Citywide waste reduction programs, such as used oil recycling, beverage container recycling, and food waste recovery. For the City to continue receiving CalRecycle grant funding, staff requests the City Council adopt a resolution (Attachment 1) authorizing the City Manager to execute all required application documents, receive any grant awards, and execute any grant renewals through 2028.

Fiscal Impact: There is no immediate financial impact or budget action necessary because of the recommended action. Staff will return to the City Council if grants are awarded and specific budget actions are required in the future.

Attachments:

1. Resolution

Report Prepared By: Jessica Kahn, Public Works Director

Reviewed By: Julia Gautho, City Clerk; Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA AUTHORIZING THE SUBMISSION OF APPLICATION(S) TO THE DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE) FOR GRANT FUNDS AND RELATED AUTHORIZATIONS

WHEREAS, Public Resources Code sections 48000 et seq. authorize the Department of Resources Recycling and Recovery (CalRecycle) to administer various grant programs (grants) in furtherance of the State of California’s (state) efforts to reduce, recycle and reuse solid waste generated in the state thereby preserving landfill capacity and protecting public health and safety and the environment; and

WHEREAS, in furtherance of this authority CalRecycle is required to establish procedures governing the application, awarding, and management of the grants; and

WHEREAS, CalRecycle grant application procedures require, among other things, an applicant’s governing body to declare by resolution certain authorizations related to the administration of CalRecycle grants.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Capitola, hereby:

1. The City of Capitola authorizes the submittal of applications to CalRecycle for all grants for which the City of Capitola is eligible.
2. The City Manager, or his/her designee, is hereby authorized as Signature Authority to execute all documents, including but not limited to applications, agreements, amendments and requests for payment, necessary to secure grant funds and implement the approved grant project(s).
3. The authorizations set forth in this Resolution are effective for five (5) years from the effective date of this resolution.
4. This Resolution shall take effect immediately upon its 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 26th day of October, 2023 by the following vote:

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

Margaux Keiser, Mayor

ATTEST:

Julia Gautho, City Clerk

Capitola City Council

Agenda Report

Meeting: October 26, 2023
From: Community Development Department
Subject: Coastal Rail Trail Segments 10 and 11



Recommended Action: Provide direction to staff on a comment letter on the Environmental Impact Report and Consolidated Coastal Permit Request for the Coastal Rail Trail Segments 10 and 11.

Background: The Coastal Rail Trail is 32 miles in length extending from Davenport to Watsonville. It is located on the Santa Cruz Branch Rail Line (SCBRL) and is owned by the Santa Cruz Regional Transportation Commission (RTC). Segments 10 and 11 are approximately 4.5 miles in length and extend from 17th Avenue in Live Oak, through the City of Capitola, to State Park Drive in the Seacliff neighborhood. As proposed, the trail will provide a new transportation corridor for pedestrians and cyclists along a paved asphalt surface. These two segments of the Coastal Rail Trail connect to 10 schools, 18 parks, 13 public beaches, 2 community centers, and multiple residential neighborhoods and commercial areas through some of the most densely populated portions of Santa Cruz County.

On December 7, 2022, the California Transportation Commission (CTC) approved \$67.6 million in competitive grant funding through its Active Transportation Program (ATP) for Coastal Rail Trail Segments 10 and 11 and fully funded the project for construction. This is the largest ATP grant ever awarded. The CTC also approved \$35.8 million for the construction of Segments 8 and 9 (Pacific Ave to 17th Ave). A total of 18 miles of the Coastal Rail Trail are now fully funded for construction between Davenport and State Park Drive. The funding does not include the trail crossing over the Capitola Trestle.

Discussion: The development of Coastal Rail Trail Segments 10 and 11 are subject to the California Environmental Quality Act (CEQA) to ensure that all significant impacts of the project are disclosed, and alternatives and mitigation measures are identified and considered.

On October 16, 2023, the County of Santa Cruz, as the lead agency under CEQA, published a draft Environmental Impact Report (EIR) for the Coastal Rail Trail Segments 10 and 11 project. The draft EIR evaluates the proposed project's potential environmental impacts and recommends mitigation measures to reduce impacts to a less-than-significant level where possible. The draft EIR is available on the County website, a link to which can be found as Attachment 2.

Within the EIR, the project is described as approximately 4.5 miles of new multi-use bicycle and pedestrian trail along the Santa Cruz Branch Line rail corridor from 17th Avenue to State Park Drive. The project excludes a 0.5-mile section following surface streets through the City of Capitola from Opal Street/Cliff Drive Plaza to the intersection of Monterey Avenue and Park Avenue. The EIR evaluates two alternatives: the Ultimate Trail Configuration (Trail Next to Rail), as well as an Optional Interim Trail (Trail on the Rail Line) whereby the railroad tracks would be removed and the trail would be located on the rail bed, at an equal level of detail.

The Ultimate Trail Configuration alternative evaluates two options in Capitola as follows:

- The first is an option to use the Capitola Trestle for the trail instead of directing trail users to bicycle lanes and sidewalks through Capitola Village. The Capitola Trestle option is not currently funded.
- In the second option, for a 0.3-mile section between Grove Lane and Coronado Street, the trail would be located on the inland side of the rail (instead of the coastal side).

The RTC provided additional information regarding the Capitola Trestle which is included as Attachment 1.

Role of the City under CEQA: The County of Santa Cruz is the lead agency for the project. The lead agency under CEQA is the public agency with the principal responsibility of approving a project. The City of Capitola and the Santa Cruz Regional Transportation Commission (SCRTC) are “responsible agencies” under CEQA. Responsible agencies have some discretionary approval or permitting power over the project, and, therefore, participate in the CEQA review process. For the City of Capitola, the project is subject to a Coastal Development Permit (CDP), discussed below. In reviewing a project, the responsible agencies must rely on the lead agency’s CEQA document and are bound by its conclusions.

A Responsible Agency has the following duties:

1. Consultation prior to preparation of an EIR.
2. Review of an EIR. A responsible agency may submit comments on projects that it will later be asked to approve or for which it has jurisdiction. Comments should focus on the shortcomings of the EIR or additional alternatives of mitigation measures the EIR should contain. Comments should be limited to those project activities that are within the responsible agency’s area of expertise, are required to be carried out or approved by the responsible agency or will be subject to the responsible agency’s exercise of powers. Comments should also be as specific as possible and supported by oral or written documentation.
3. Consideration of an inadequate EIR. If a responsible agency finds an EIR to be inadequate, the responsible agency may challenge the EIR.
4. Adoption of alternatives or mitigation measures. A responsible agency is only responsible for mitigating or avoiding the direct or indirect impacts of those parts of the project that it decides to finance, carry out, or approve.
5. Make findings. During the discretionary approval or permitting of the project, the responsible agency may issue separate findings regarding the project and impose all feasible mitigation measures that apply to its part of the project.

Role of the City under Measure L: During the 2018 General Municipal Election, Measure L, a citizen ballot initiative, passed adding Chapter 8.72 Greenway Capitola Corridor to the Capitola Municipal Code. Measure L was drafted to keep the Monterey Bay Sanctuary Scenic Trail within the Santa Cruz Branch Line Rail Corridor, and not allow a detour around the Capital Trestle. The code includes language on implementation stating that the City shall take all steps necessary to preserve and utilize the corridor and trestle for active transportation and recreation; and further states no City of Capitola department, agency, or employee shall expend 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.

In the 2022 General Election, a County-wide measure to modify the Santa Cruz County General Plan to prioritize the trail over a combined rail and trail (Measure D) failed, with 73% of County voters voting against the measure. Subsequently, in December of 2022, the County was awarded \$67.6 million in funds to fully fund Segments 10 and 11.

As a responsible agency, staff has taken a more active role in the review of the EIR and design measures through Capitola Village to improve wayfinding and circulation and reduce conflicts due to increased demand. During the Draft EIR review, Capitola staff informed the County of a preference for Design Option A with the trail located on the Capitola Trestle. Capitola staff requested that the project include improvements on surface streets from Opal Street/Cliff Drive to the intersection of Monterey Avenue and Park Avenue. In response to these comments, the project has been enhanced with wayfinding and striping modifications to improve the visibility of the existing delineated pedestrian and bicycle areas, including:

- Revising the width of the existing bike and vehicular lanes for an approximately 350-foot-long portion of Cliff Drive, from the end of the Coastal Rail Trail to where the sidewalk begins on the coastal side of Cliff Drive, to allow demarcation of a separate 4-foot-wide pedestrian path on the coastal side adjacent to the Class II bike lane;
- Re-painting the existing white striping and adding green pavement painting to the existing Class II bike lanes through the Capitola Village; and

- Installing white sharrow markings with green backgrounds along the Class III bike routes where bicycles and vehicles share the lane through the Capitola Village.

However other comments City staff submitted have not been included in the EIR, specifically:

- ADA improvements in the Capitola Village
- New sidewalks on Cliff Drive

The RTC has indicated they would support the City in applying for grant funds to fund these items in a separate project.

The 60-day public review period for the Draft EIR began October 16, 2023, and ends December 15, 2023. The County must receive all written comments regarding the adequacy of the Draft EIR within this period. The City Council may direct staff to submit a comment letter during the 60-day review period. Comments made during the City Council meeting will not be considered as public comments on the EIR, as those comments must be received by the County.

Consolidated Coastal Development Permit: The project requires approval of a Coastal Development Permit (CDP) by both the City of Capitola and the County of Santa Cruz. County staff has requested the application be reviewed in a consolidated CDP by the Coastal Commission since a CDP is required by both jurisdictions and a portion of the project is within the Coastal Commission's original jurisdiction over Soquel Creek. In order to process a consolidated CDP, the applicant (RTC), the appropriate jurisdictions (City of Capitola and County of Santa Cruz), and the Coastal Commission Executive Director all must consent to consolidate the permit action, provided that that consolidation does not substantially impair public participation. The standard of review for a consolidated coastal development permit application is the California Coastal Act with the appropriate local coastal program used as guidance. If the City Council were to consent to a consolidated CDP, the consolidated CDP would be reviewed by the Coastal Commission during a public meeting rather than the Capitola Planning Commission. The public would have the opportunity to provide comments to the Coastal Commission. The City Council may direct staff to proceed with a consolidated CDP, request that staff return with the request after the EIR public comment period ends, or direct staff to process the project through the Planning Commission as a normal CDP.

In summary, staff is requesting feedback on two specific items.

1. If staff should return to Council with a comment letter on the EIR.
2. If the City will consent to a consolidated CDP at this time.

Representatives from the County of Santa Cruz and RTC will be in attendance at the October 26th City Council meeting to provide a presentation and answer questions.

Next Steps: The County is scheduled to receive comments on the Draft EIR at a public meeting on Thursday, November 16, 2023, from 5:00 to 7:30 p.m. The County of Santa Cruz website will post additional information on meeting format and location once details become available. Following the EIR public comment period, the County will schedule the project for consideration before the County Board of Supervisors.

Fiscal Impact: There are no fiscal impacts associated with this update.

Attachments:

1. Regional Transportation Commission FAQs on Capitola Trestle
2. Link to Coastal Rail Trail Segments 10 & 11 Draft Environmental Impact Report:
https://dpw.co.santa-cruz.ca.us/Portals/19/pdfs/RailTrail/Schematic-Design-Plans/RTS1011_DEIR_with_Appendices.pdf

Report Prepared By: Katie Herlihy, Community Development Director

Reviewed By: Julia Gautho, City Clerk; Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager



Capitola Trestle on the Santa Cruz Branch Rail Line

Background

The Santa Cruz Regional Transportation Commission (RTC) owns the Santa Cruz Branch Rail Line. The rail line is a freight rail line in need of structural repairs on several bridges, including the Capitola Trestle. The RTC, in partnership with local jurisdictions, is pursuing development of a dedicated bicycle and pedestrian facility, referred to as the Coastal Rail Trail, within the rail right-of-way. The RTC is also pursuing development of passenger rail within the rail right-of-way as part of the Zero Emission Passenger Rail and Trail project.

The Capitola Trestle complex is comprised of 5 individual, but connected, bridges, each made of different materials. The Capitola Trestle provides an elevated rail crossing of Soquel Creek, Wharf Road, Riverview Avenue, and Capitola Avenue. Repairs to the Capitola Trestle complex are needed before the bridge is viable for freight or passenger service.

FAQS

Can a bicycle and pedestrian bridge be attached to the existing Capitola Trestle to provide bicycles and pedestrians access across Soquel Creek within the rail line right-of-way?

A bicycle and pedestrian bridge cannot be attached to the existing Capitola Trestle. The Capitola Trestle complex is made up of 5 bridges including two concrete spans, two multi-span open deck timber trestles, and an open deck wrought iron bridge that spans Soquel Creek. The wrought iron bridge and timber trestles do not have a location suitable to connect a cantilevered bicycle and pedestrian bridge and do not have adequate structural capacity to support the added weight. Therefore, a bicycle and pedestrian bridge, like the one cantilevered from the San Lorenzo River Trestle, is not feasible on the Capitola Trestle complex.

Can a separate bicycle and pedestrian bridge be constructed across Soquel Creek within the rail line right-of-way?

The rail right-of-way in the area of the Capitola Trestle complex is constrained. Constructing a stand-alone bicycle and pedestrian bridge next to the existing Capitola Trestle and within the rail right-of-way may not be feasible and would require significant engineering. Due to this space constraint, the engineering challenges of constructing a bridge spanning Soquel Creek, and the cost of constructing a new bridge (trail or rail bridge) over Soquel Creek, staff is recommending that a bicycle and pedestrian trail bridge be combined with replacement of a

new Capitola Trestle complex. The Zero Emission Passenger Rail and Trail Project Concept Report will evaluate the feasibility and cost of a combined rail and trail bridge to replace the Capitola Trestle complex. To date, no cost estimate has been developed for a new combined rail and trail bridge to replace the current Capitola Trestle complex.

Can the Capitola Trestle bicycle and pedestrian trail be constructed on the existing Capitola Trestle?

The 2021 Capitola Railroad Bridge Repurposing Conceptual Study analyzed the feasibility of converting the Capitola Trestle from a rail bridge to a bicycle and pedestrian trail bridge. The Study determined that, from a constructability and engineering standpoint, the Capitola Trestle could be repurposed into a bicycle and pedestrian bridge if required structural repairs are completed, including the replacement of the wrought iron bearings, all the timber bracing, and 30-40% of the timber piles. After structural repairs are completed, the existing rails, decking, and ballast could be removed and replaced with a steel and fiber reinforced polymer deck system similar to that used on the San Lorenzo trail bridge. The study estimated that repair and repurposing of the bridge would cost approximately \$7 million in 2021 dollars.

What are the regulatory requirements to allow the repurposing of the Capitola Trestle to a bicycle and pedestrian bridge?

In order to be able to repurpose the Capitola Trestle to a bicycle and pedestrian bridge, the rail line would

either need to go through the regulatory process administered by the federal Surface Transportation Board (STB) to be abandoned or railbanked. STB regulations designate a common carrier who has the obligation to provide freight rail service to potential customers. To remove the obligation, a freight railroad would need to apply to the STB for abandonment based on the lack of freight service and the high cost of repairs. Abandonment is not desired by the RTC since any right-of-way owned by easement and not fee title would revert to the underlying property owners. Railbanking is a method by which freight rail lines proposed for abandonment can be preserved for future freight rail use through interim conversion to trail use and other uses. If railbanked, the rail and ties could be removed, and the right-of-way would be preserved for potential re-activation of freight and other potential rail service.

How can the Santa Cruz Branch Rail Line be railbanked to allow for repurposing of the Capitola Trestle to a bicycle and pedestrian bridge?

To abandon and railbank the Santa Cruz Branch Rail Line, the freight operator would need to file for direct abandonment with the Surface Transportation Board (STB) or an interested party could file for adverse abandonment. The RTC would need to both file a petition with the STB to enter into railbanking negotiations, and subsequently enter into a railbank agreement with the freight operator. The RTC would need to assume financial liability for preserving the rail line. Railbanking by means of a direct abandonment proceeding can be streamlined when there is no opposition. Another freight operator can make an Offer of Financial Assistance (OFA) to maintain the line and assume the legal obligation to provide freight service. A freight rail customer or the owner of a potential stranded line would have grounds to object to abandonment and railbanking. The STB will not refuse to issue a railbanking order based on third-party objections about the desirability or appropriateness of the proposed use. The best path to railbanking is to have the mutual support of all affected parties, including the freight operator, affected freight customers, and owners of potential stranded lines.

What other steps are required to develop an interim trail on the Capitola Trestle?

In addition to railbanking, several steps need to occur to develop an interim trail on the Capitola Trestle, including environmental review, design, permitting and securing funding. The Coastal Rail Trail Segment

10 & 11 Project environmental review under the California Environmental Quality Act (CEQA) will include evaluation of the Ultimate Trail Configuration (Trail next to Rail Line) and an optional Interim Trail (Trail on the Rail Line) and both are part of the Proposed Project. In addition, the Ultimate Trail Configuration includes a design option that would provide environmental clearance under CEQA for an Interim Trail on the Capitola Trestle as part of the Ultimate Trail Configuration to maximize flexibility. Therefore, an interim trail project on the Capitola Trestle will be environmentally cleared under CEQA as part of the proposed Coastal Rail Trail Segment 10 & 11 environmental review, should the County of Santa Cruz certify the Segment 10 & 11 Final Environmental Impact Report. Once the interim trail is environmentally cleared, the project could enter the project design phase, should funding be available.

Item 9 A.

Is there funding for construction of an interim trail on the Capitola Trestle?

There is not approved funding for repurposing the Capitola Trestle for an interim trail. The County of Santa Cruz, in coordination with the RTC and City of Capitola, are developing the Coastal Rail Trail Segments 10 & 11 project, which extends from 17th Avenue to State Park Drive in the unincorporated area of the County of Santa Cruz. A combination of local, state and federal funding is dedicated to construction of Segment 10 & 11 for the Ultimate Trail Configuration (Trail next to Rail Line). The current funded project does not include funding for development of a trail across the Capitola Trestle.

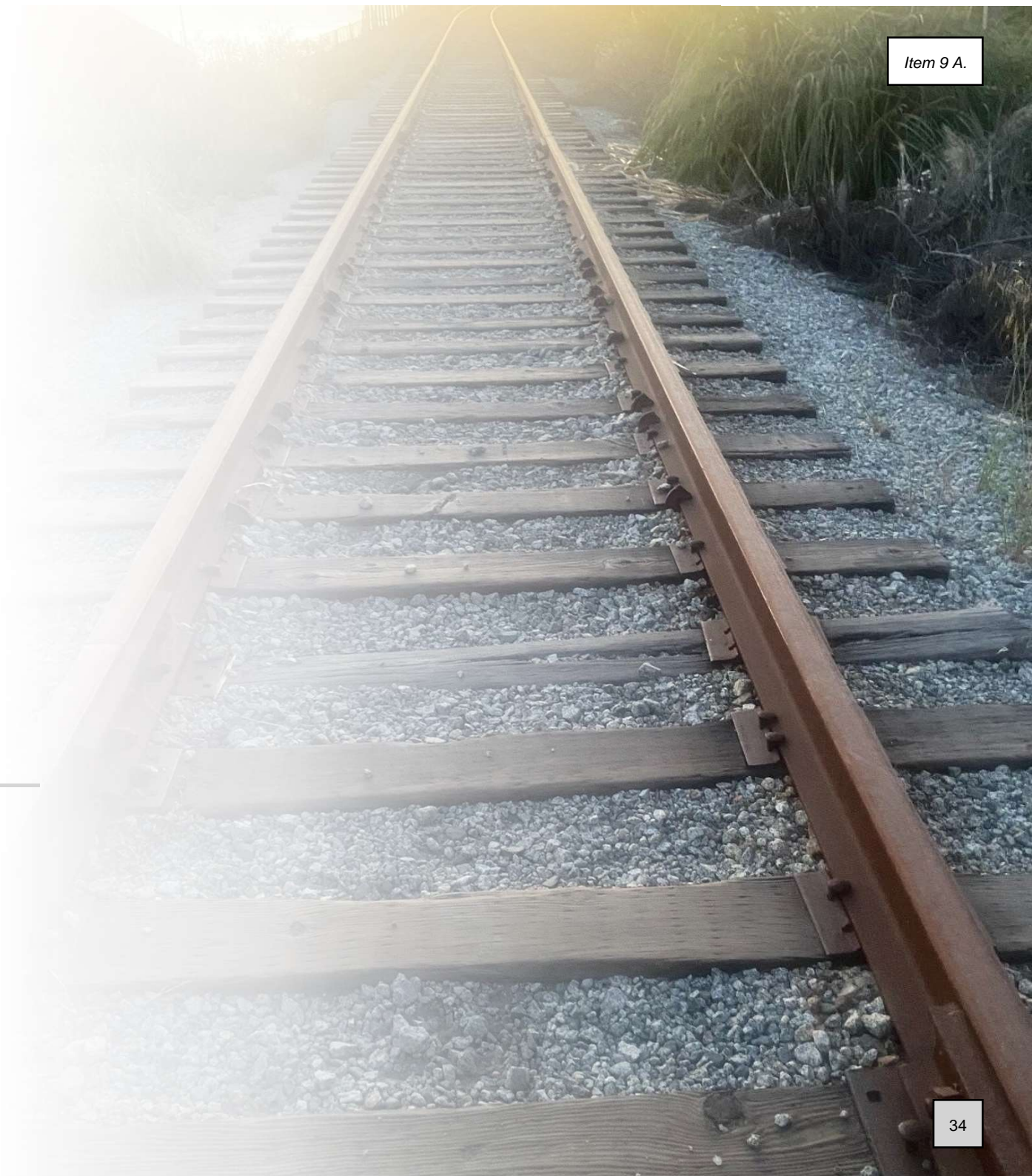
What does the Coastal Rail Trail Segment 10 & 11 funded project include for Capitola Village?

The Coastal Rail Trail Segments 10 & 11 project includes re-striping the existing bike lanes in Capitola Village and enhancing the Class II bike lanes with green thermoplastic striping, and enhancing existing sharrows on Class III roadways with green paint. The project also includes adding signage directing bicyclists and pedestrians through the Village to the Coastal Rail Trail. In addition, a roughly 350-foot-long section of Cliff Drive from the end of the trail to the start of the Cliff Drive sidewalk will be restriped to create a delineated pedestrian walkway and Class II bike lane on the coastal side of the roadway where bicyclists and pedestrians currently have to share the bike lane.



Coastal Rail Trail Segments 10 & 11

City Council
October 26, 2023





Coastal Rail Trail Segments 10 & 11

Role of City of Capitola

1. Presentation by Regional Transportation Commission and County of Santa Cruz
2. Role of City
3. City Council Questions
4. Public Comment
5. Discussion and Deliberation



Coastal Rail Trail Segments 10 & 11 Role of City of Capitola

Insert County and RTC
Presentation Here



Coastal Rail Trail Segments 10 & 11

Role of City of Capitola

What is Capitola's Role in the review of the rail trail?



Coastal Rail Trail Segments 10 & 11

Role of City of Capitola

California Environmental Quality Act (CEQA)

Ensure that all significant impacts of the project are disclosed, and alternatives and mitigation measures are identified and considered.

Environmental Impact Report (EIR)

Lead Agency: Santa Cruz County

Responsible Agencies: RTC and City of Capitola



Coastal Rail Trail Segments 10 & 11

Role of City of Capitola

Capitola is a Responsible Agency within the EIR

1. Consultation prior to EIR.
2. Review EIR.
 - Submit comments (optional)
 - Support Letter
 - Shortcomings of EIR or additional alternatives
3. May challenge inadequate EIR
4. May adopt alternatives or mitigation measures for parts of the project that it decides to finance, carry out, or approve.
5. Within discretionary approval/permits, may issue separate findings and impose mitigation



Coastal Rail Trail Segments 10 & 11

Role of City of Capitola

Draft EIR review by Capitola staff.

1. Preference for Design Option A with the trail located on the Capitola Trestle.
2. Improvements necessary between two end points through Capitola Village.



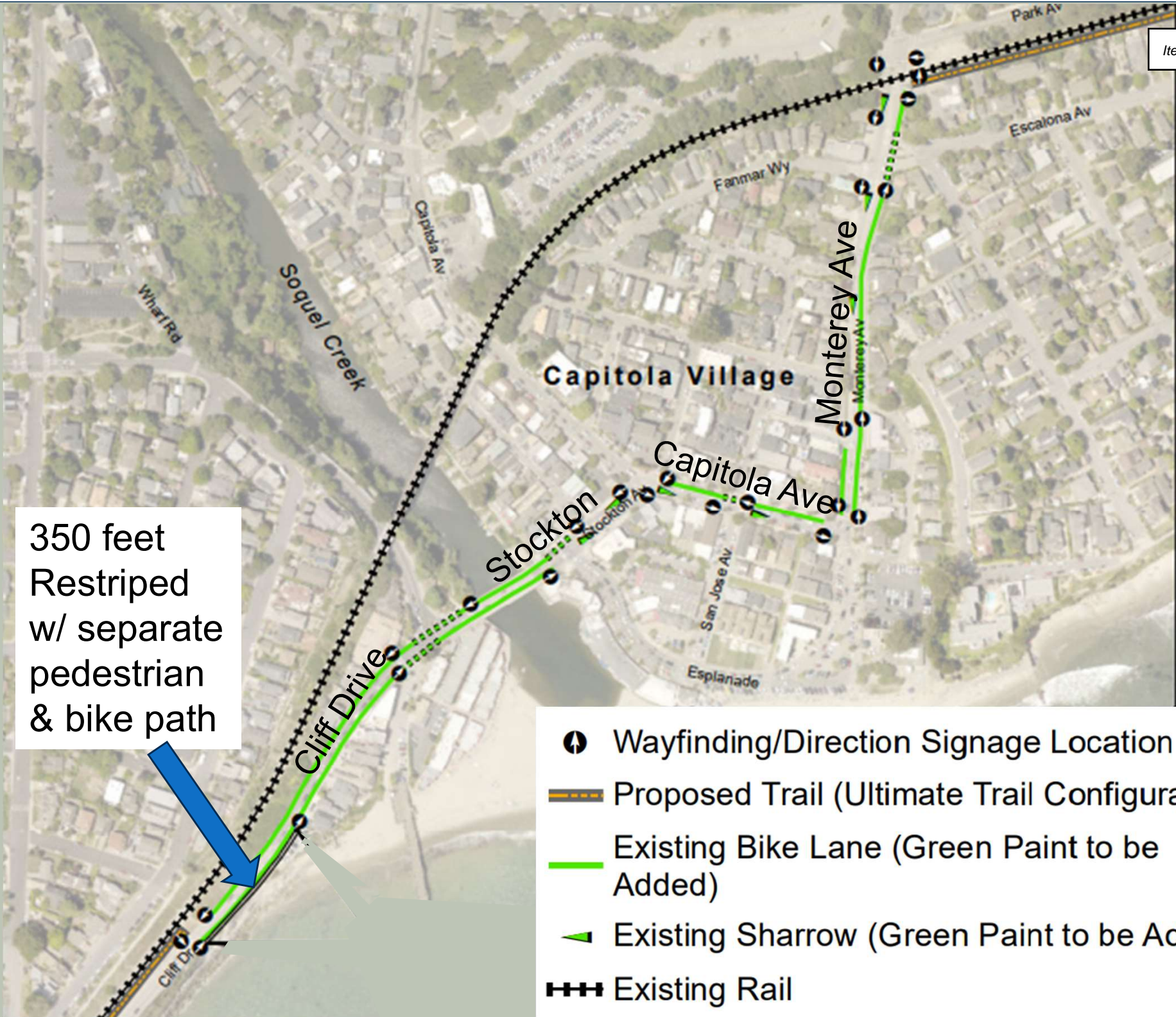
Coastal Rail Trail Segments 10 & 11

Role of City of Capitola

Improvements:

- Revising lanes for 350-foot-long portion of Cliff Drive to allow separate 4-foot-wide pedestrian path on the coastal side adjacent to the Class II bike lane;
- Re-paint white striping and adding green pavement painting to the existing Class II bike lanes; and
- Installing sharrow markings where bicycles and vehicles share the lane.





350 feet
Restriped
w/ separate
pedestrian
& bike path



-  Wayfinding/Direction Signage Location
-  Proposed Trail (Ultimate Trail Configuration)
-  Existing Bike Lane (Green Paint to be Added)
-  Existing Sharrow (Green Paint to be Added)
-  Existing Rail



Coastal Rail Trail Segments 10 & 11

Role of City of Capitola

Not included in Project:

- ADA improvements in the Capitola Village
- New sidewalks on Cliff Drive



Coastal Rail Trail Segments 10 & 11 Role of City of Capitola

Consolidated Coastal Development Permit (CDP)

- Consolidated Review by Coastal Commission of both segments instead of Planning Commission review for Capitola portion.
- Reviewed for consistency with the Coastal Act rather than Capitola's Local Coastal Program.



Coastal Rail Trail Segments 10 & 11 Role of City of Capitola

Public comments made tonight are specific to Capitola's role and will not be responded to within the County EIR.

Opportunity to submit comments on Draft EIR:

County of Santa Cruz Public Meeting
Segments 10 & 11 DEIR
Thursday, November 16th
5:00 to 7:30 p.m.

See County of Santa Cruz website for meeting details.



Coastal Rail Trail Segments 10 & 11 Role of City of Capitola

Request for Feedback:

1. Should staff prepare a comment letter on the EIR?
2. Will City consent to a consolidated CDP at this time?

Coastal Rail Trail Segments 10 + 11 Project Update

Item 9 A.

Overview - Coastal Rail Trail

Project Benefits

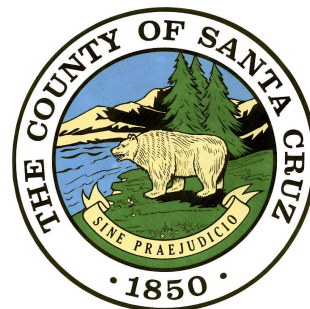
Project Design

Capitola Village & Trestle

Design Options

Schedule, Next steps & permitting

Rob Tidmore, County of Santa Cruz
Grace Blakeslee, SCCRTC



Monterey Bay Sanctuary Scenic Trail

- Trail Master Plan
- 50-mile trail network
- Connects to Monterey County
- 32-mile Coastal Rail Trail/Santa Cruz Branch Line
- Adopted by City of Capitola in 2015



The Coastal Rail Trail

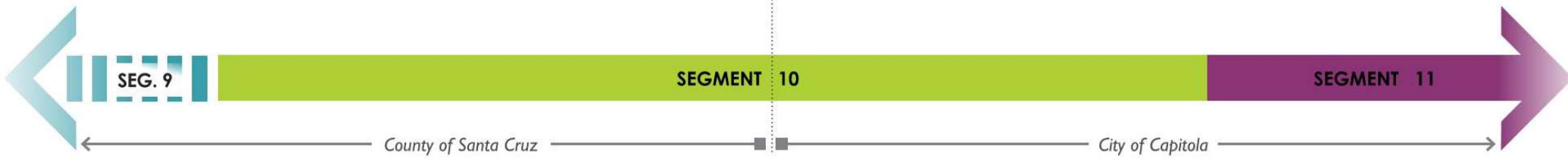
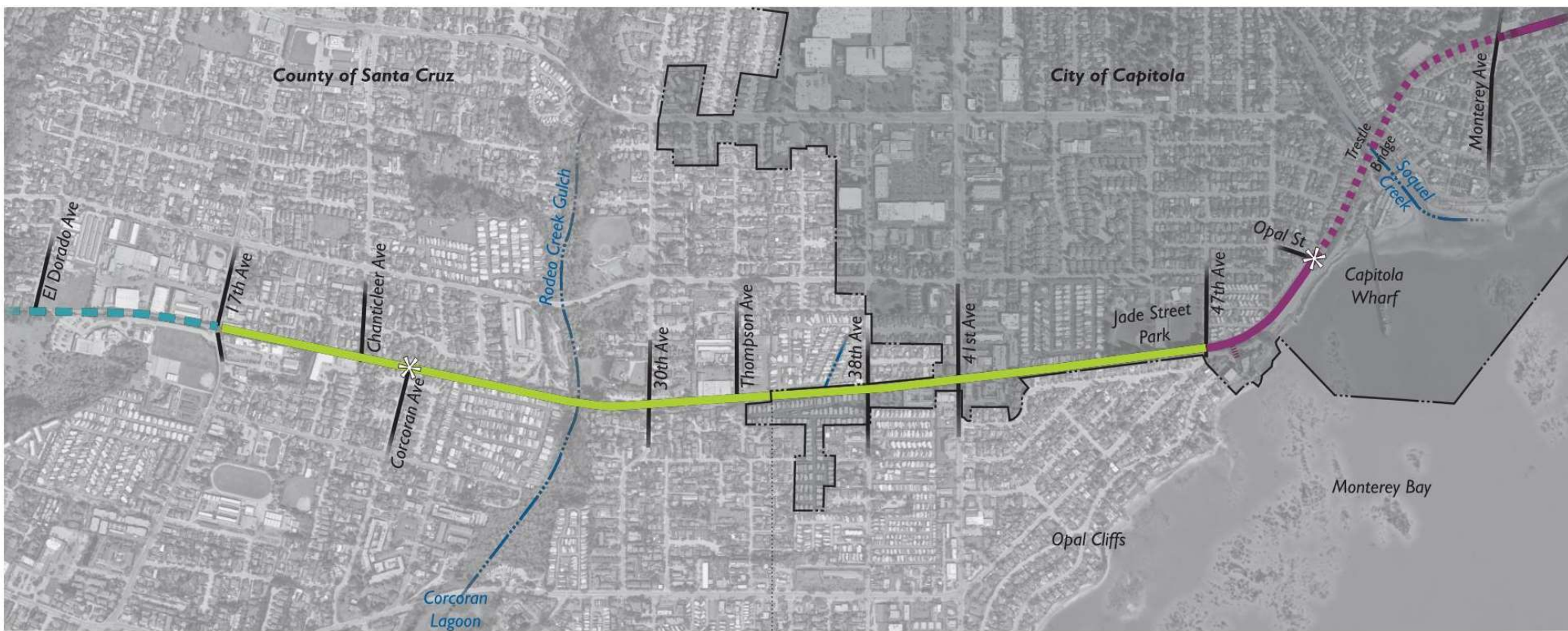


PROJECT STATUS

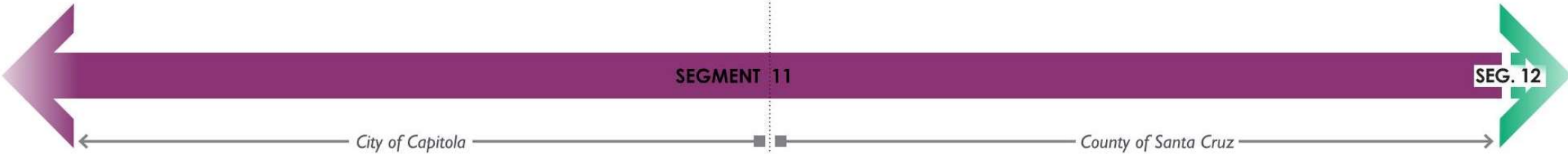
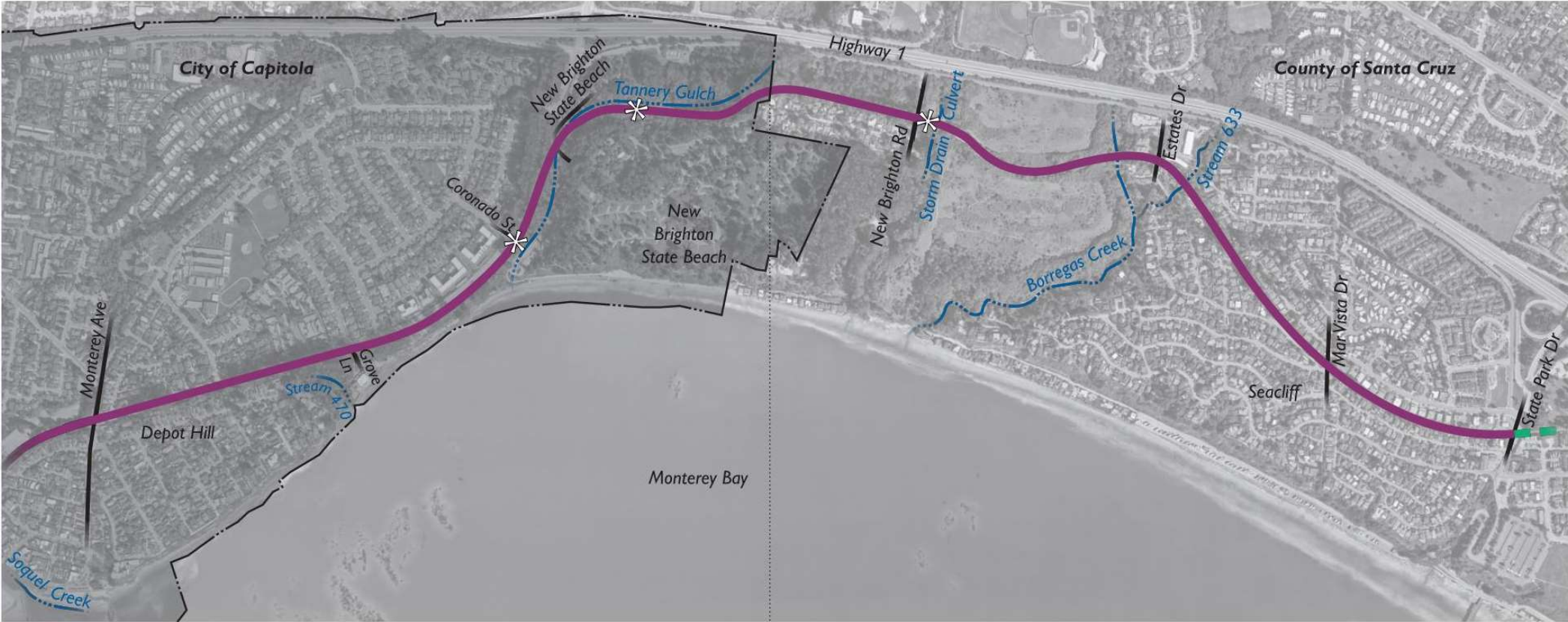
 Under Development	 Completed
 Construction Funded	 Existing Wilder Ranch Path

Updated December 2022

Coastal Rail Trail – Segments 10 & 11



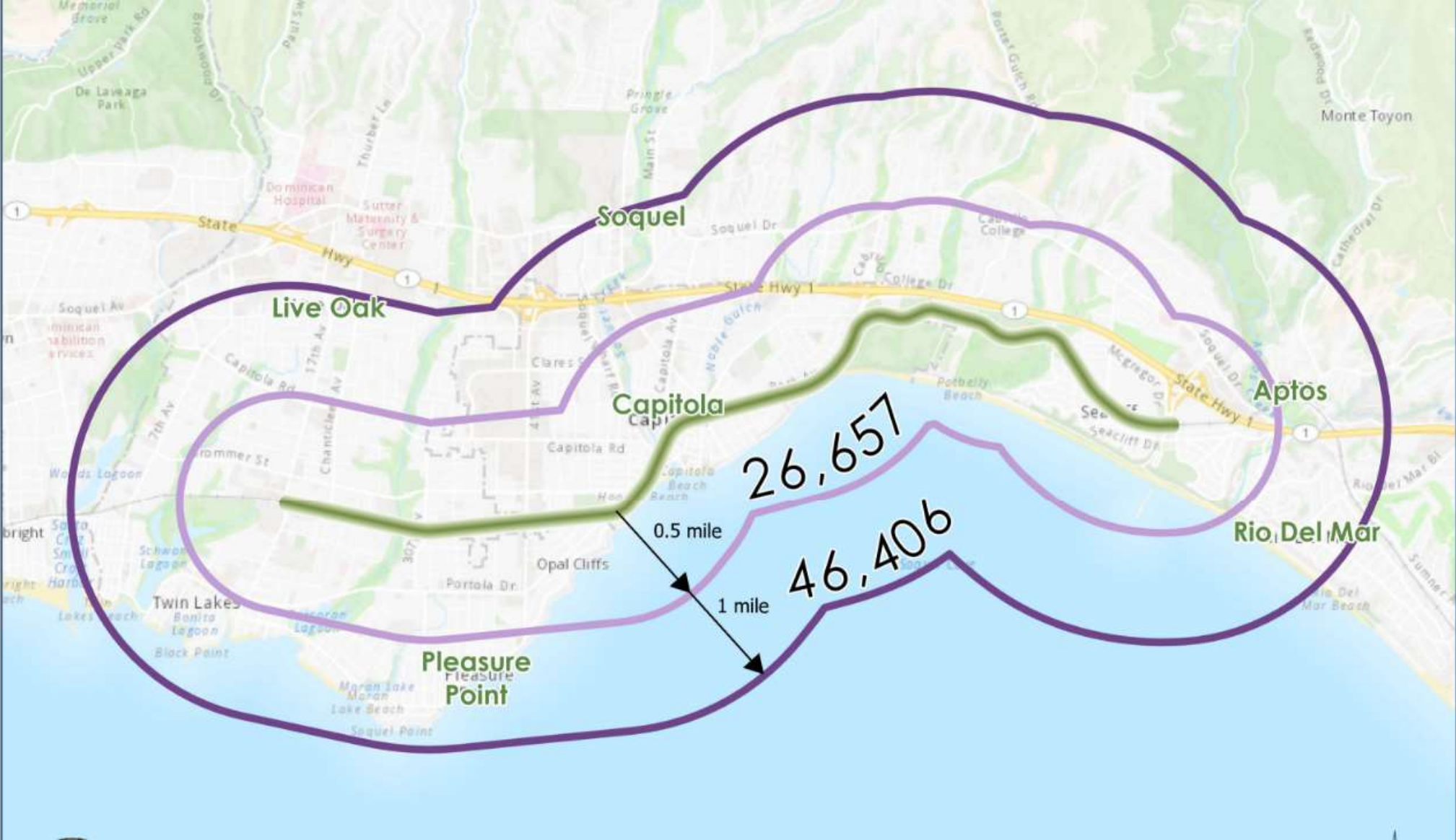
Coastal Rail Trail – Segments 10 & 11



Project Benefits to Capitola residents

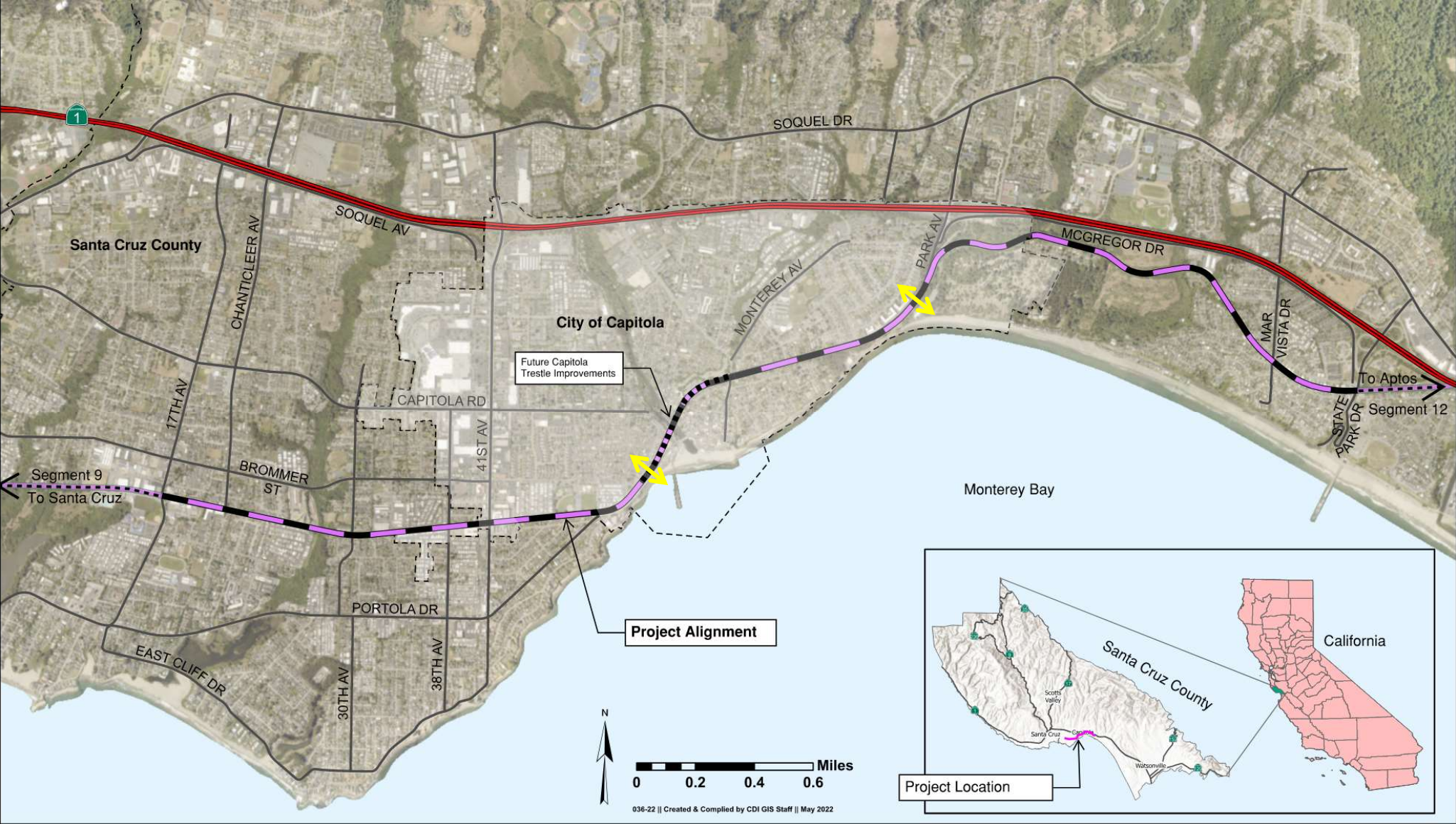
- 2 miles of new dedicated bicycle and pedestrian facility within the City of Capitola
- Direct connection to 18 miles of trails by 2029 (Aptos to Davenport)
- Within 1 mile of 100% and ½ mile of 88% of Capitola residents
- New bicycle and pedestrian and car free access from City of Capitola neighborhoods to:
 - Jade Street Park
 - 41st Ave Commercial Corridor
 - New Brighton State Beach
- Sidewalk gap closure on Park Ave, and provides parallel route for sidewalk gaps on Cliff Dr and McGregor Dr
- Enhanced nonvehicular and low-cost coastal access for all ages and abilities
- No construction cost to the City of Capitola

Project Benefits



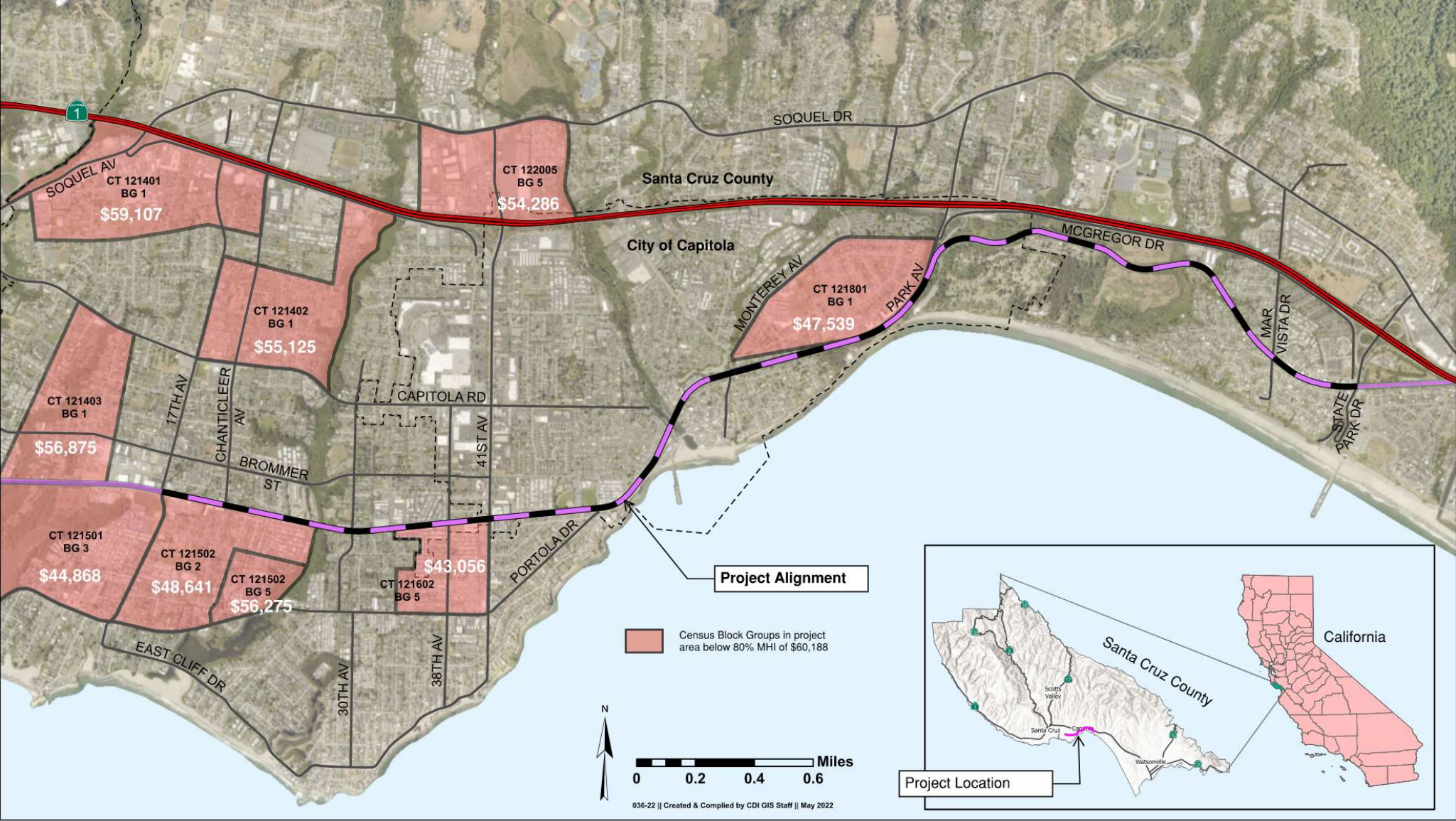
- >26,000 people within 1/2 mile (10-minute walk) of trail

Project Benefits



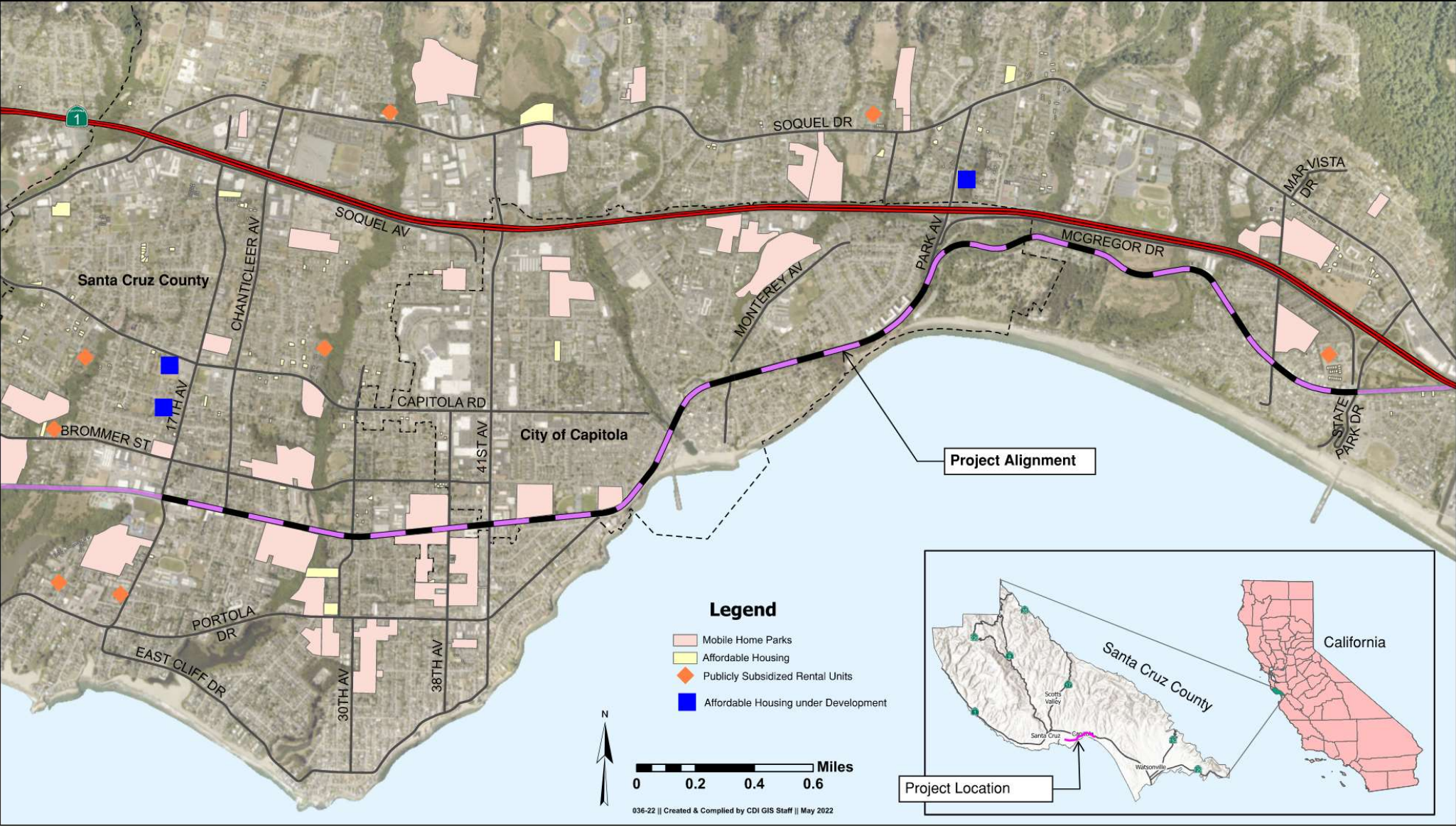
- 4.2 miles of trail – 2 miles traverses entire length of the Ci 54

Project Benefits



- Connections to low-income areas of City

Project Benefits



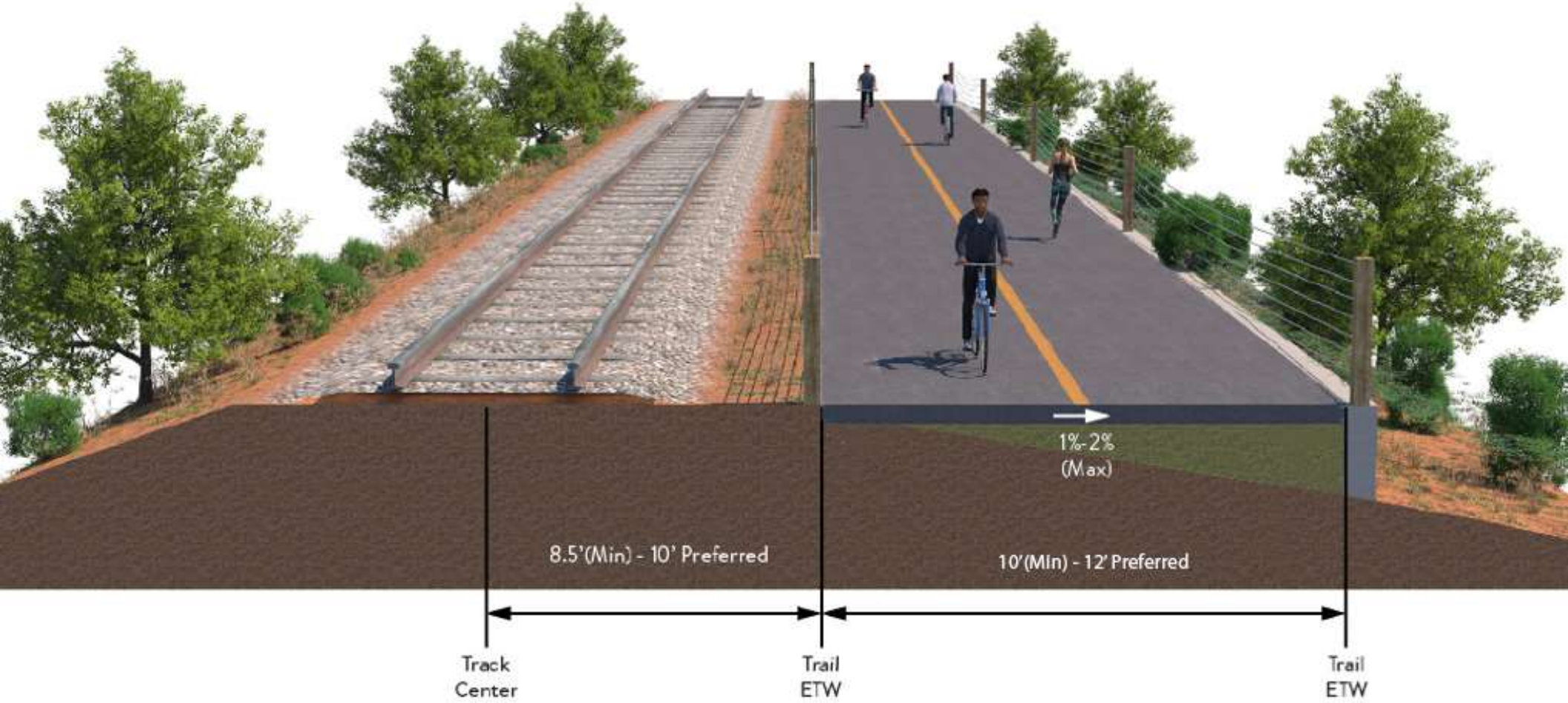
- Connections to affordable housing

Project Benefits



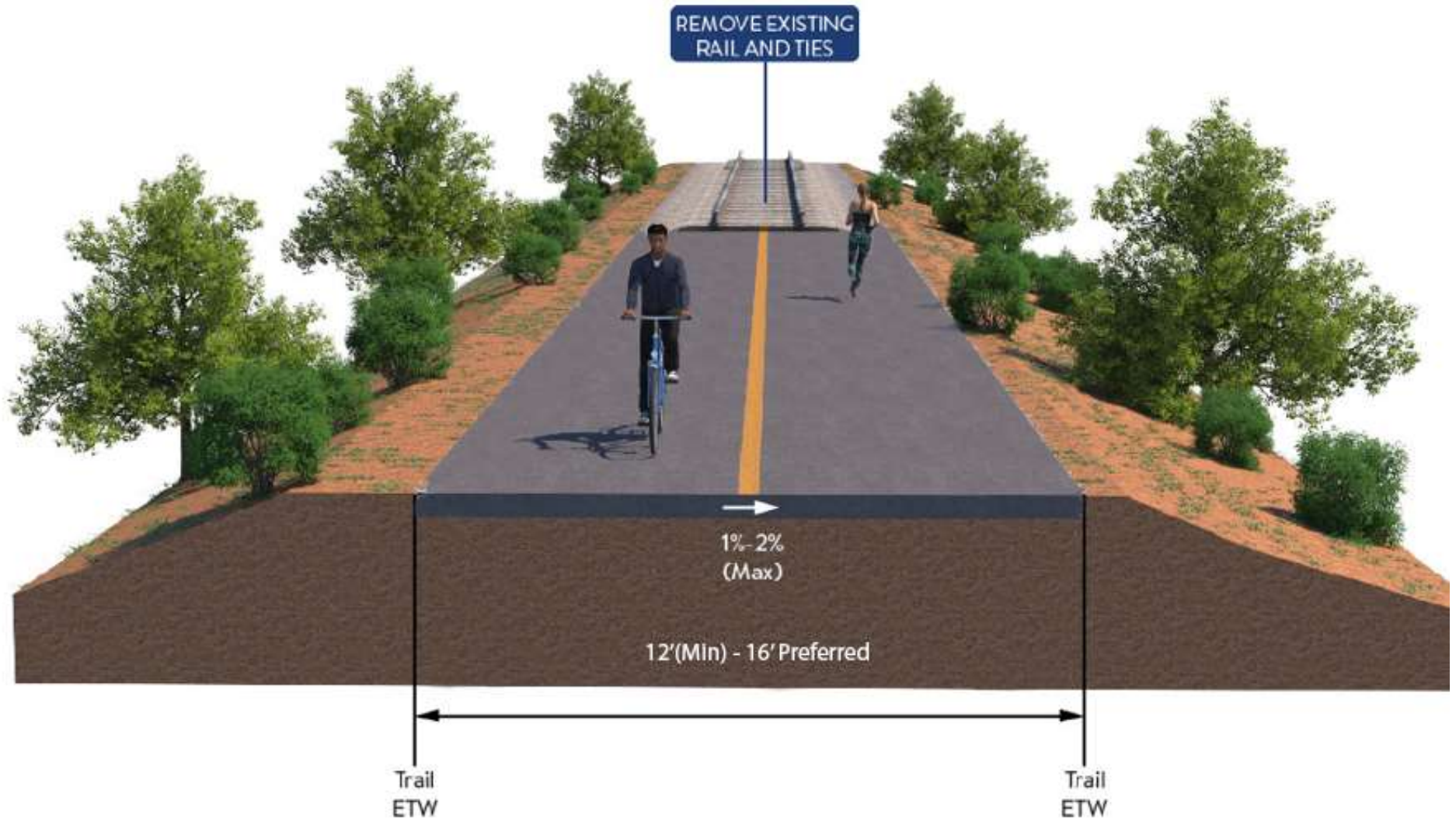
• Connections to libraries, community centers, seniors, clinic

Ultimate Trail Configuration Trail Next to the Rail Line

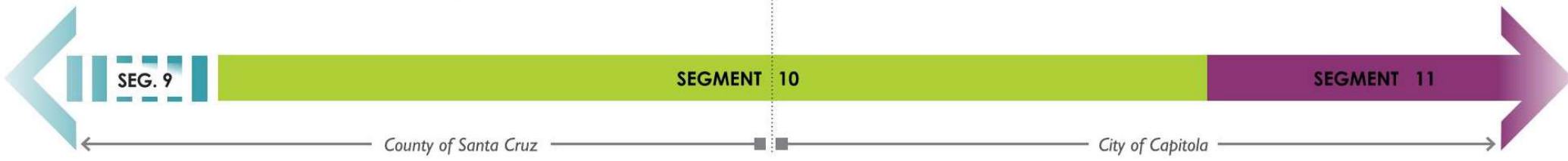
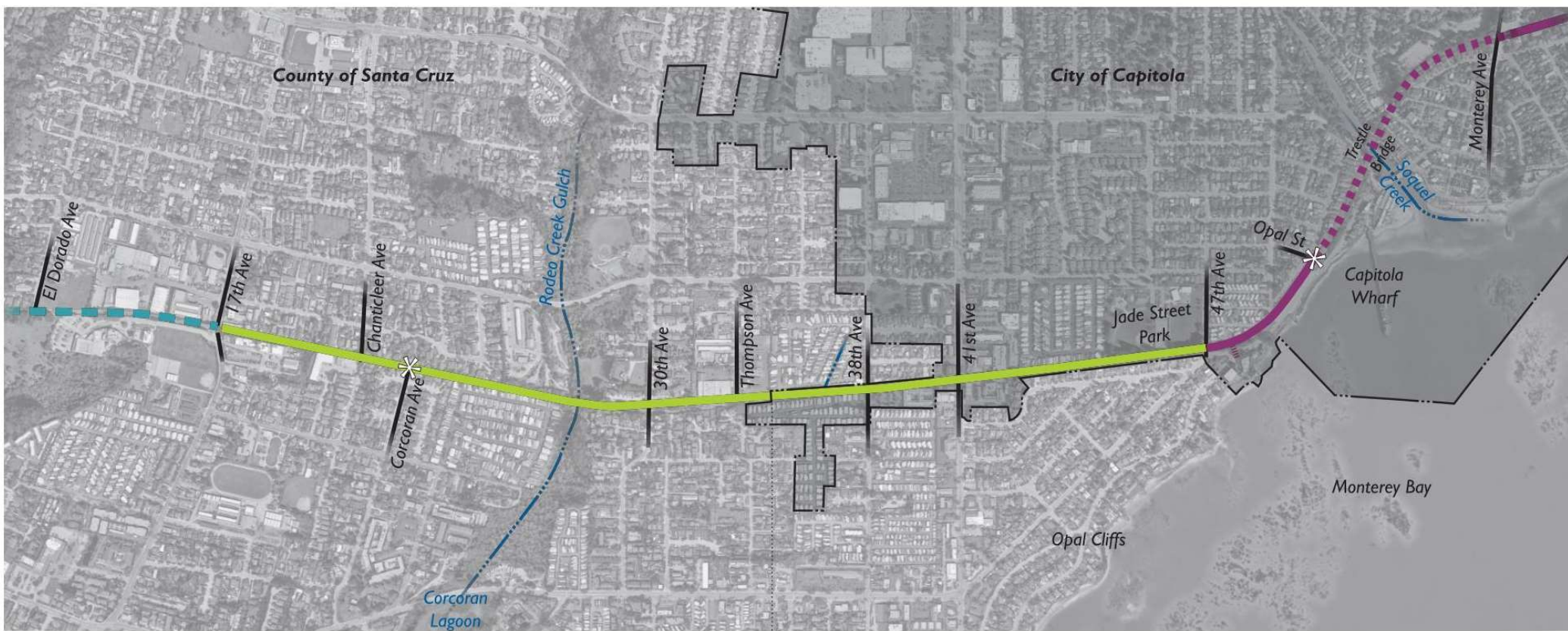


Interim Trail Configuration

Trail On the Rail Line



Coastal Rail Trail – Segments 10 & 11



41st Ave Area



Existing



Proposed

Jade Street Park Area



Existing

Proposed

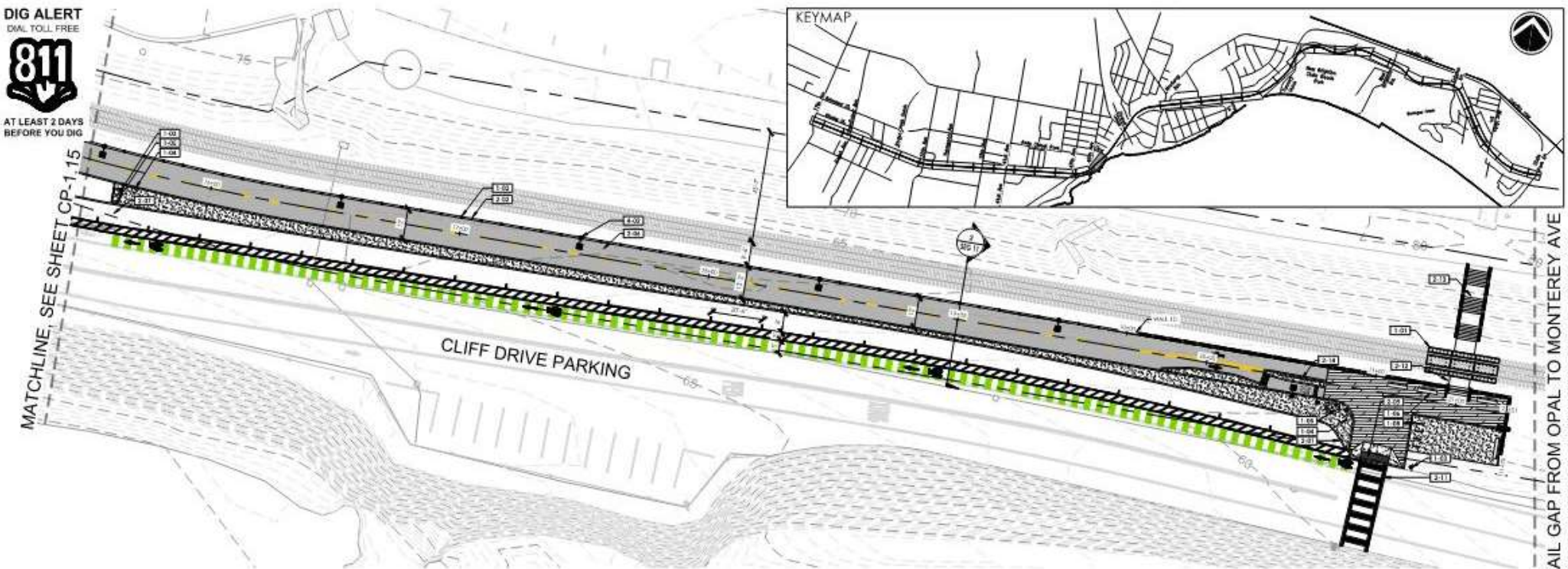
Cliff Drive Area



Existing

Proposed

Cliff Drive Area

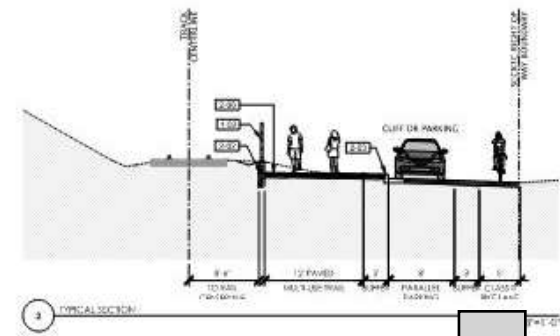


REFERENCE NOTES SCHEDULE

SYMBOL	DESCRIPTION
SITE STRENGTHENING AND SOILWORK	
1-01	CONCRETE TRACK PANEL
1-02	SEPARATION FENCING
1-03	PROPOSED SIGN
1-04	RELOCATED PAY STATION
1-05	TRASH RECEPTACLES
1-06	BENCH
1-07	CROSSWALK BARRIER
1-08	BIKE RACKS
1-09	FLEXIBLE BOLLARD
1-10	GUARDRAIL SYSTEM
PEDESTRIAN AND TRAFFIC CONTROL	
2-01	4" WIDE CURB
2-02	8" WIDE CURB
2-03	4" CURB AND GUTTER
2-04	CURB RAMP
2-05	DETECTABLE WARNING SURFACE
2-06	HMA PAVEMENT (TRAIL)
2-07	HMA PAVEMENT (ROAD)
2-08	CONCRETE SIDEWALK
2-09	CONCRETE CROSSWALK STRIPING
2-10	CROSSWALK MARKINGS
2-11	LADDER CROSSWALK STRIPING
2-12	PROPOSED AT-GRADE CROSSING
2-13	PROPOSED STAIRS
2-14	TRAIL CHICANE
STRUCTURAL	
3-01	RETAINING WALL, SEE WP SHEETS
3-02	VIADUCT
3-03	ABUTMENT
3-04	BRIDGE
UTILITIES	
4-01	PP EXISTING RAIL EQUIPMENT
4-02	PROPOSED LIGHT
4-03	NEW LIGHT FIXTURE ON EXISTING POLE
4-05	SIGNALLED W11-15 CROSSING SIGN

LEGEND

SYMBOL	DESCRIPTION
[Symbol]	SOCRIC RIGHT OF WAY CITY LIMITS
[Symbol]	EXISTING FENCE
[Symbol]	FENCE OR GUARDRAIL ON CURB, WALL, VIADUCT OR BRIDGE
[Symbol]	RETAINING WALL, SEE WP SHEETS
[Symbol]	PROPOSED LIGHTS
[Symbol]	CONCRETE PAVEMENT
[Symbol]	HMA PAVEMENT (TRAIL)
[Symbol]	VIADUCT WITH FIBERGLASS REINFORCED POLYMER DECK
[Symbol]	BRIDGE WITH FIBERGLASS REINFORCED POLYMER DECK
[Symbol]	DECOMPOSED GRANITE
[Symbol]	DECORATIVE PAVERS



Capitola Village Area



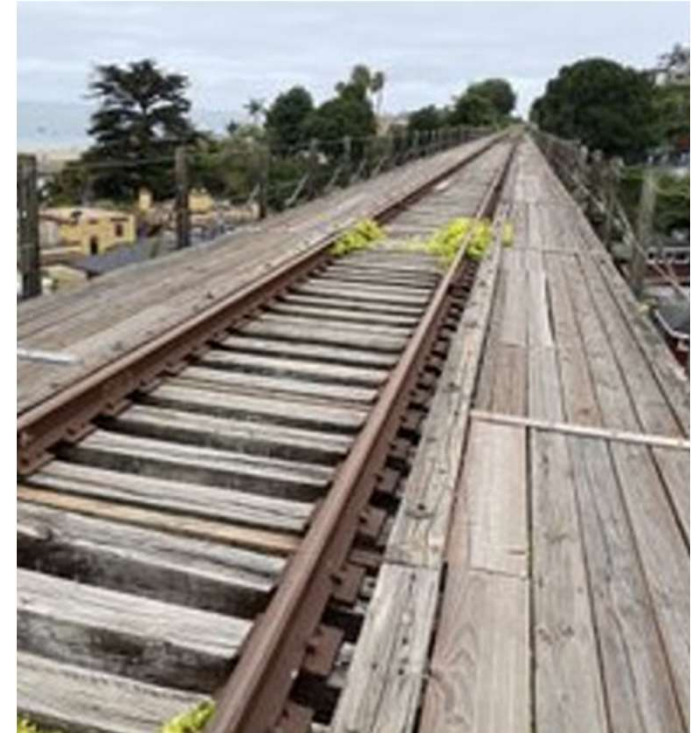
Additional Bicycle and Pedestrian Facilities in Capitola Village

- Seek funding to develop an Active Transportation Plan for Capitola Village
- Identify locations for new bicycle and pedestrian facilities in Capitola Village
- Include Capitola Village priority bicycle and pedestrian improvements in future requests for state and federal funding



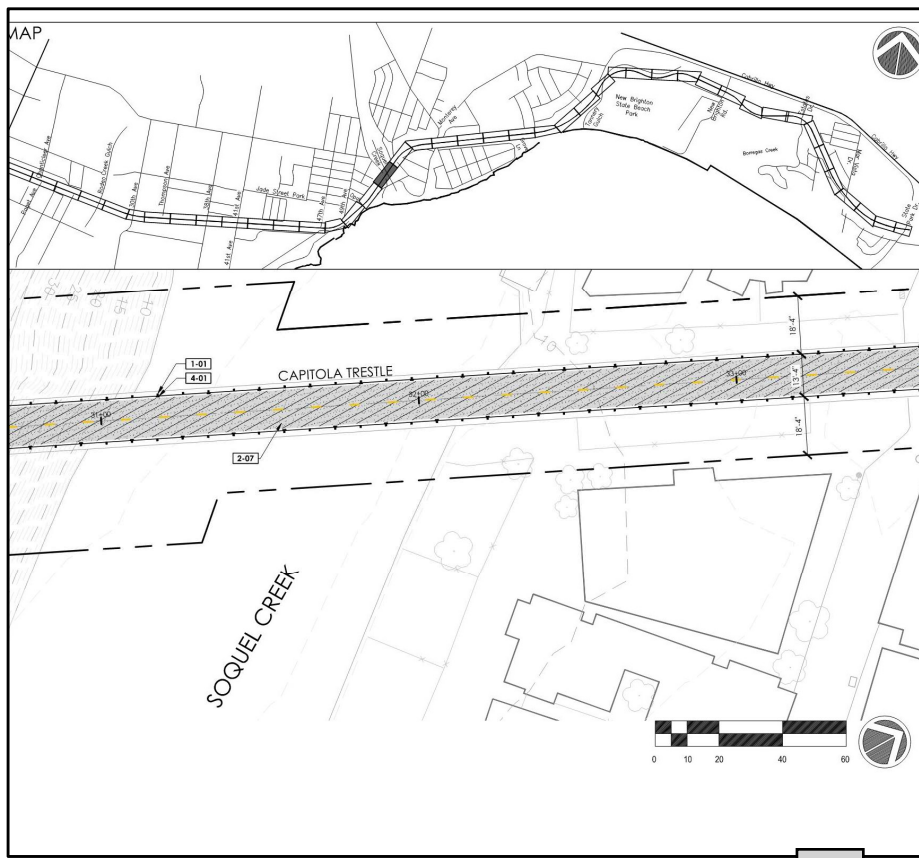
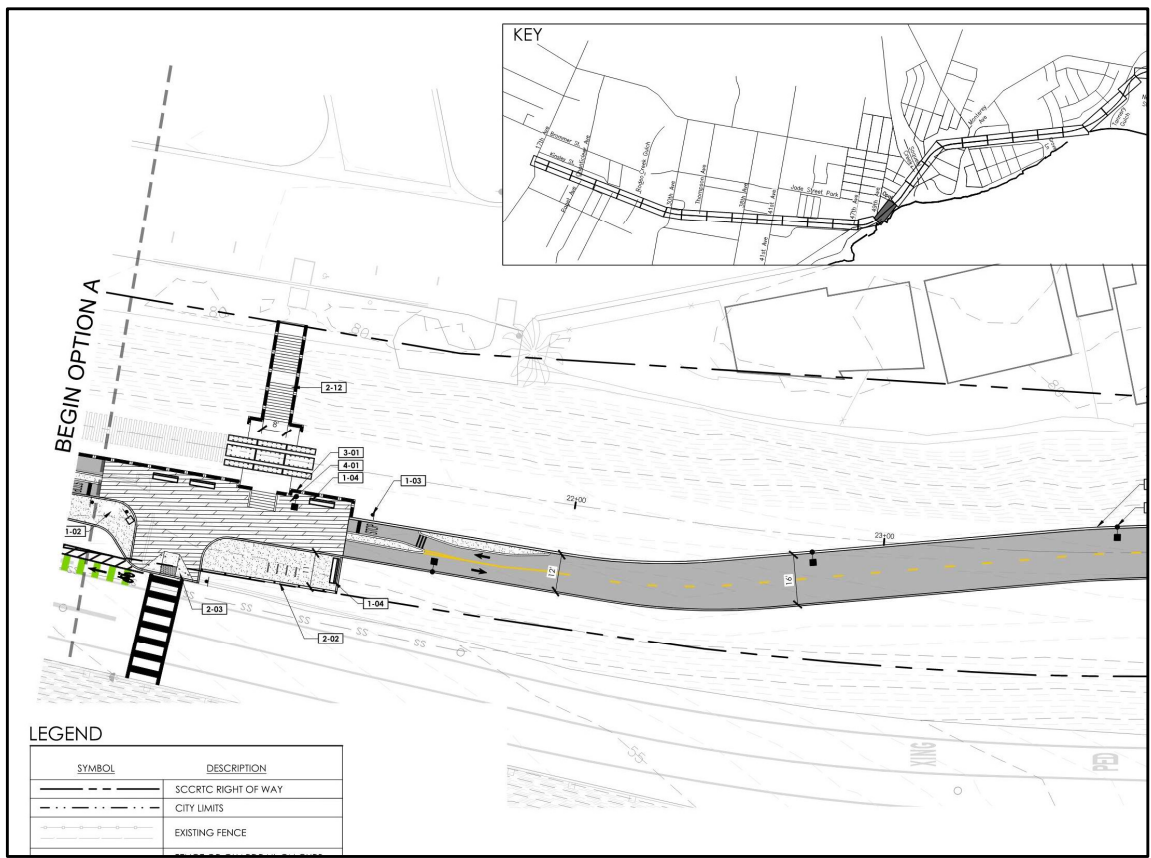
Capitola Trestle FAQs

- Existing Structure cannot accommodate rail and trail
- Insufficient right-of-way to construct a separate trail bridge
- Replace existing trestle with a combined rail and bike/ped bridge over Soquel Creek as part of the RTC's Rail Project
- Convert Capitola Trestle to bicycle and pedestrian bridge requires regulatory approvals (railbanking)



Capitola Trestle Trail Conversion

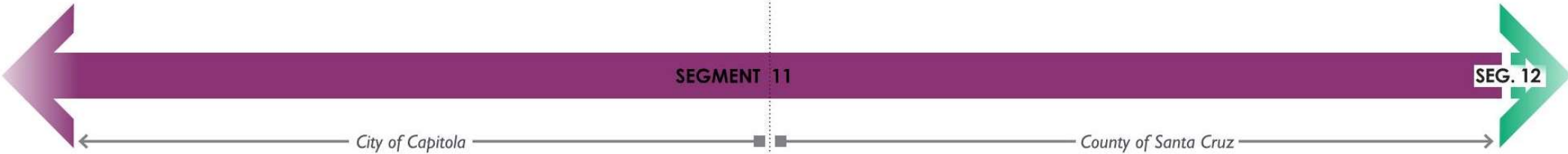
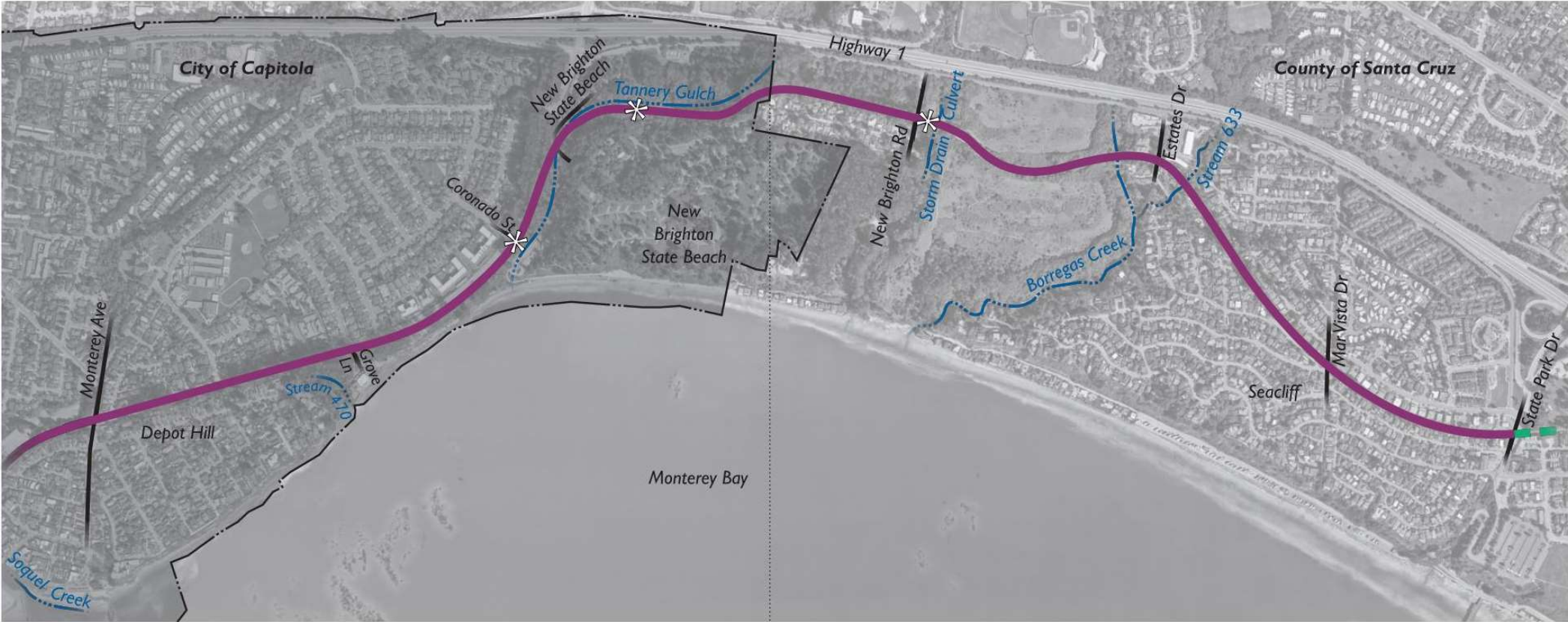
- Not part of ATP grant scope or funding
- Interim Trail Configuration – included
- Ultimate Trail Configuration – now included as Design Option A



Design Option A

Interim & Design Option A

Coastal Rail Trail – Segments 10 & 11



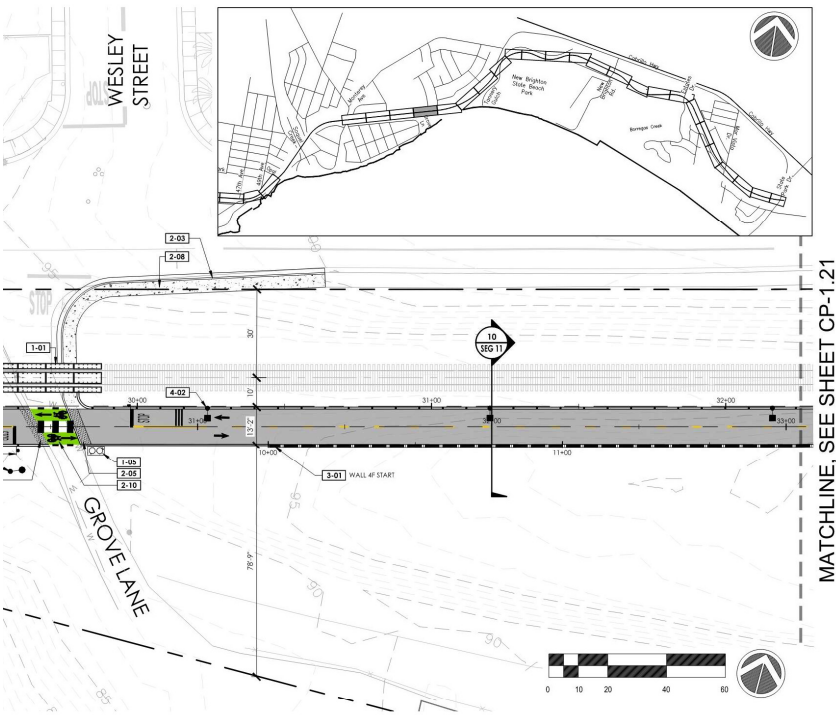
Monterey Ave to Grove Lane



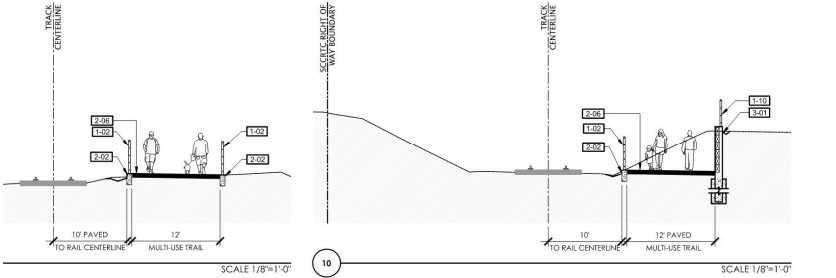
Depot Hill retaining wall and storm



Grove Lane to Coronado Western Connection @ Grove

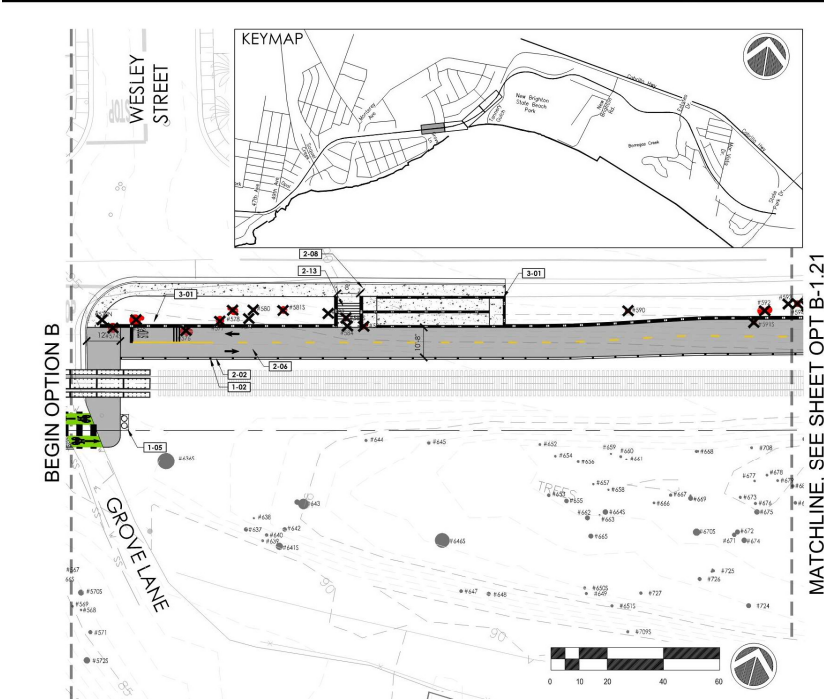


MATCHLINE: SEE SHEET CP-1.21

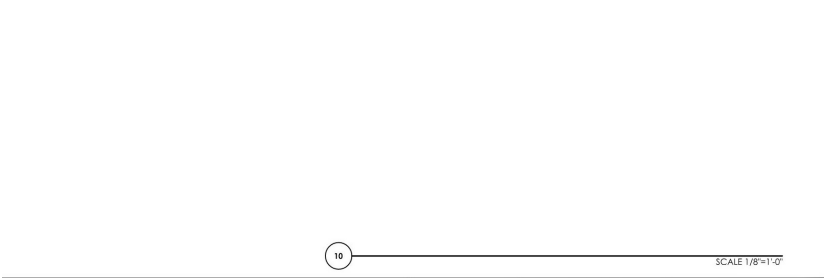


RAIL TRAIL SEGMENTS 10 & 11
NEXT TO THE RAIL LINE (ULTIMATE TRAIL CONFIGURATION)
CONSTRUCTION KEYNOTE PLANS

REFERENCES FIELD BOOK:	DATE	02/10/2023	SCALE	AS SHOWN
	DRAWN	KS	CP-1.20	
DRAWING #: CP-0193-06-RWT-S11	DESIGN	KS/MS	VAULT NO.	
	CHECKED	MS		



MATCHLINE: SEE SHEET OPT B-1.21

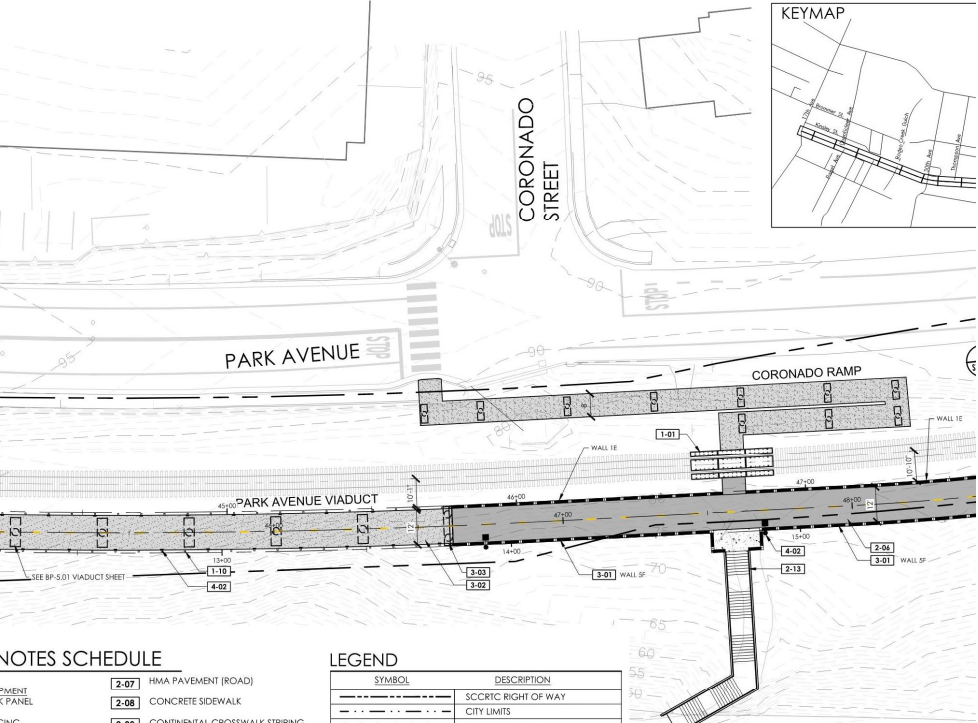


RAIL TRAIL SEGMENTS 10 & 11
RAIL NEXT TO THE RAIL LINE (ULTIMATE TRAIL CONFIGURATION)
DESIGN OPTION B

REFERENCES FIELD BOOK:	DATE	05/15/2023	SCALE	AS SHOWN
	DRAWN	KS	OPT B-1.01	
DRAWING #: CORONADO CP	DESIGN	KS/MS	VAULT NO.	
	CHECKED	MS		

TRAIL NEXT TO THE RAIL LINE (ULTIMATE TRAIL CONFIGURATION) REFINED SCHEMATIC PLANS - 05/15/23

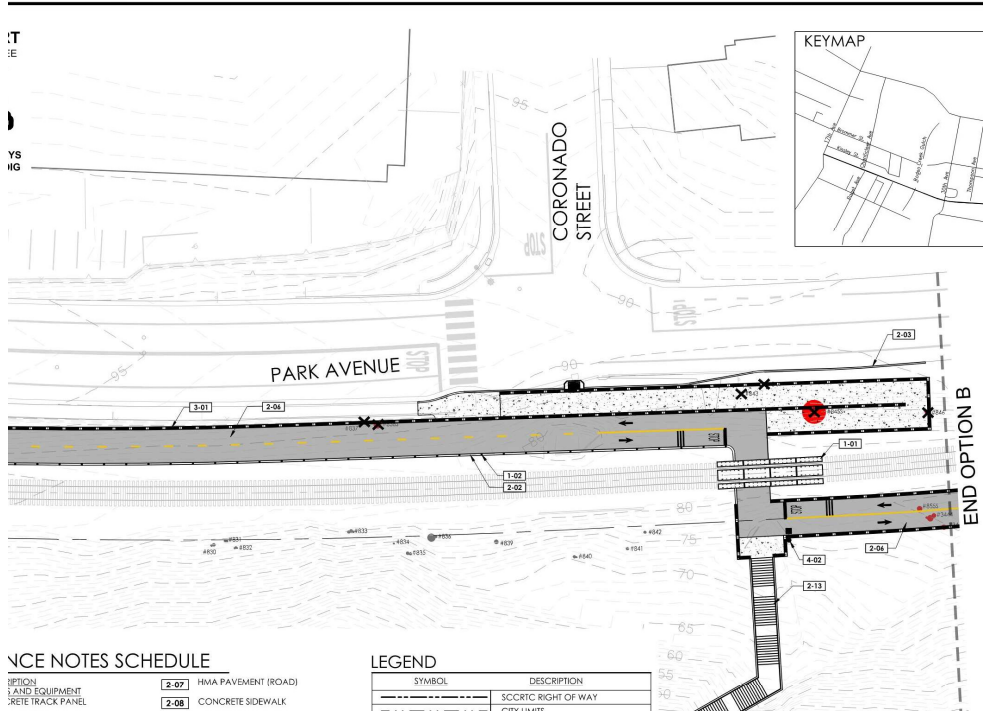
Grove Lane to Coronado Eastern Connection @ Coronado



- NOTES SCHEDULE**
- 2-07 HMA PAVEMENT (ROAD)
 - 2-08 CONCRETE SIDEWALK
 - 2-09 CONTINENTAL CROSSWALK STRIPING
 - 2-10 CROSSBIKE MARKINGS
 - 2-11 LADDER CROSSWALK STRIPING
 - 2-12 PROPOSED AT-GRADE CROSSING
 - 2-13 PROPOSED STAIRS
 - 2-14 TRAIL CHICANE
- STRUCTURAL**
- 3-01 RETAINING WALL, SEE WP SHEETS
 - 3-02 VIADUCT
 - 3-03 ABUTMENT
 - 3-04 BRIDGE
- UTILITIES**
- 4-01 PIP EXISTING RAIL EQUIPMENT
 - 4-02 PROPOSED LIGHT
 - 4-03 NEW LIGHT FIXTURE ON EXISTING POLE
 - 4-05 SOLAR LED W11-15 CROSSING SIGN

LEGEND

SYMBOL	DESCRIPTION
[Symbol]	SCCRTC RIGHT OF WAY
[Symbol]	CITY LIMITS
[Symbol]	EXISTING FENCE
[Symbol]	FENCE OR GUARDRAIL ON CURB, WALL, VIADUCT OR BRIDGE
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[Symbol]	VIADUCT WITH FIBERGLASS REINFORCED POLYMER DECK
[Symbol]	BRIDGE WITH FIBERGLASS REINFORCED POLYMER DECK
[Symbol]	DECOMPOSED GRANITE
[Symbol]	DECORATIVE PAVERS



- NOTES SCHEDULE**
- 2-07 HMA PAVEMENT (ROAD)
 - 2-08 CONCRETE SIDEWALK
 - 2-09 CONTINENTAL CROSSWALK STRIPING
 - 2-10 CROSSBIKE MARKINGS
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- STRUCTURAL**
- 3-01 RETAINING WALL, SEE WP SHEETS
 - 3-02 VIADUCT
 - 3-03 ABUTMENT
 - 3-04 BRIDGE
- UTILITIES**
- 4-01 PIP EXISTING RAIL EQUIPMENT
 - 4-02 PROPOSED LIGHT
 - 4-03 NEW LIGHT FIXTURE ON EXISTING POLE
 - 4-05 SOLAR LED W11-15 CROSSING SIGN

LEGEND

SYMBOL	DESCRIPTION
[Symbol]	SCCRTC RIGHT OF WAY
[Symbol]	CITY LIMITS
[Symbol]	EXISTING FENCE
[Symbol]	FENCE OR GUARDRAIL ON CURB, WALL, VIADUCT OR BRIDGE
[Symbol]	RETAINING WALL, SEE WP SHEETS
[Symbol]	PROPOSED LIGHTS
[Symbol]	CONCRETE PAVEMENT
[Symbol]	HMA PAVEMENT (TRAIL)
[Symbol]	VIADUCT WITH FIBERGLASS REINFORCED POLYMER DECK
[Symbol]	BRIDGE WITH FIBERGLASS REINFORCED POLYMER DECK
[Symbol]	DECOMPOSED GRANITE
[Symbol]	TREE REMOVALS

REVISIONS	 <p>COUNTY OF SANTACRUZ DEPARTMENT OF PUBLIC WORKS 701 Ocean Street, Room 410 Santa Cruz, CA 95060</p>	<p>RAIL TRAIL TRAIL NEXT TO THE RAIL</p>	
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REVISIONS	 <p>COUNTY OF SANTACRUZ DEPARTMENT OF PUBLIC WORKS 701 Ocean Street, Room 410 Santa Cruz, CA 95060</p>	<p>RAIL TRAIL TRAIL NEXT TO THE RAIL</p>	
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Segment 10 & 11

Key Public Input to Date:

- Environmental Impact Report Scoping Meeting – November 2021
- Neighborhood presentations – Late 2021
- RTC Transportation Policy Workshop – February 2022
- Virtual and In-person Open House Schematic Design Reviews – Spring 2022
- Online project survey – Spring 2022
- RTC Citizen Advisory Committees (Bicycle Committee, Elderly and Disabled Transportation Advisory Committee, Interagency Technical Advisory Committee)- Spring 2022
- Targeted outreach to disadvantaged communities – Spring 2022
- Parks and Recreation Commission – Summer 2022
- Capitola City Council – Spring 2023
- Neighborhood presentations – Spring 2023
- Draft Environmental Impact Report – October 16 – December 15*

**Note: comments made during this presentation are not part of the official record of comments on the DEIR.*

Segment 10 & 11

Project Schedule & Next Steps

- Notice of Preparation of Environmental Impact Report - October 2021
- Draft Schematic Plan Reviews - 2022
- Draft Environmental Impact Report (EIR)– October 2023
- Draft EIR Public Meeting – November 16, 2023
- Certification of Final EIR – March 2024
- Final Design, right-of-way, and permitting – 2024 - 2026
- Construction Start Date - 2026

The Coastal Rail Trail



Thank you!

Contact Information

Rob Tidmore, Segment 10 & 11 Project Manager

Santa Cruz County Parks

831-454-7947, Robert.Tidmore@santacruzcountyca.gov

For more information, please visit: www.santacruzcountyca.gov/RailTrail

Grace Blakeslee, Senior Transportation Planner

Santa Cruz County Regional Transportation Commission

831-460-3219, gblakeslee@sccrtc.org

Comments on the Draft EIR should be emailed/mailed to:

RailTrail@santacruzcountyca.gov

Rob Tidmore, Santa Cruz County Parks, 979 17th Ave, Santa Cruz, CA 95062

Capitola City Council

Agenda Report

Meeting: October 26, 2023
From: Police Department
Subject: Chief's Advisory Committee



Recommended Action: Receive a report about the formation of the Police Chief's Advisory Committee, review the application and selection process, and provide direction to staff.

Background: In 2020, the death of George Floyd ignited a movement centered on local policing reforms. To address community concerns and encourage community collaboration, the Capitola Police Department led by then-Chief McManus with the Santa Cruz Criminal Justice Council conducted a comprehensive review of all the Capitola Police Department's Policies and Procedures.

Following that review, Chief McManus discovered the value of forming a Chief's Advisory Committee as an opportunity for early community buy-in and to review and advise on new or sensitive police policies.

In 2021, under Chief McManus, Police Department executive staff researched the formation of the Chief's Advisory Committee by engaging candidates for the promotional sergeant position. Candidates researched and reviewed Police Chief Advisory Committees in other agencies, interviewed City staff and community stakeholders, and presented a written report as a part of their exam. Police Department executive staff conducted follow-up interviews with Santa Cruz Police Chief Bernie Escalante, Watsonville Police Chief Jorge Zamora, and Chico Police Chief Matt Madden.

After conducting research, reviewing policies, and receiving feedback from various agencies, the Police Department developed Capitola Police Policy #217 (Attachment #1) and began recruitment efforts with the goal of activating the committee in October of 2023.

Staff conducted outreach regarding the recruitment for the Chief's Advisory Committee by publishing information on the City's website under the Police Department's Transparency webpage. The webpage provided an overview of the Committee, the commitments required from the committee members, examples of good candidates, examples of topics considered by the Committee, the estimated application timeline, and information about how to apply. Staff also conducted outreach by sharing this information on the Police Department and City social media platforms (Facebook, Instagram, Nextdoor) and the Capitola Waves Newsletter during the months of July, August, and September.

Discussion: The Capitola Police Department is dedicated to community policing. The Police Chief's Advisory Committee (CAC) is intended to better foster communication and collaboration between the community and the Police Department. The structure of a CAC can vary widely from one jurisdiction to another; however, a common theme among CACs is they are intended to engage the community and create a platform of dialogue. The effectiveness of the committee can depend on many factors, such as the level of community engagement, the number of meetings held per year, and the workplan of the CAC moving forward. Santa Cruz, Watsonville, and Chico Police have Police Chief Advisory Committees, where members are selected by the Chief of Police. Related documents establishing the Chico, Santa Cruz, and Watsonville committees are included as Attachment #3.

Capitola's community is comprised of 10,000 residents and numerous visitors per year. In addition to residents and business owners, the City relies on thousands of service workers to meet the needs of our local economy and community. Staff intended to appoint 6-8 key stakeholders to a two-year term on the new CAC, beginning in October of 2023. The appointed members would be expected to serve as representatives of Capitola's diverse community and would be comprised of a cross-section of active community members throughout the City of Capitola. Members should represent a range of interests and experiences, including business owners, educational leaders, non-profit organizations, public relations,

faith communities, and youth organizations. Applicants were required to reside in Capitola or own a Capitola business.

Recruitment for the CAC began in July 2023. Staff received 8 applications, despite receiving 12 inquiries. Eight candidates participated in an interview with the Police Chief, which provided staff with an opportunity to highlight the role and mission of the Committee and expectations for members. Committee members are expected to ensure that decisions are not influenced by personal agendas and are tasked with actively considering and acknowledging their biases and relying on data and facts to make informed recommendations. Committee members were selected by the Police Chief.

CAC Moving Forward: On October 6, 2023, staff announced the appointment of 8 community members to the CAC. All 8 applicants offered different skills and experiences. Following that announcement, staff reflected on the composition of the CAC and felt that, due to the limited number of applicants, the Committee's composition was not representative of Capitola's diverse community. Staff paused all CAC activity while reviewing how to best recruit and select members. On October 12, 2023, City Council Member Brooks and Mayor Keiser requested that staff bring forth a presentation on the formation and selection of the CAC.

Staff suggests the City re-recruit for the CAC and has outlined a potential communications and outreach plan to do so. All recruitment materials will be available in English and Spanish. Recruitment and application information will be shared on the City's website and social media accounts, as well as published in a selection of local news publications. A flyer will be distributed throughout Capitola, and posted at the locations below:

- City Buildings & Kiosks
- Community Centers located in the sphere of influence
- Live Oak and Capitola Branch Libraries
- Mobile home parks located in the sphere of influence
- Service industry businesses

In addition, staff proposes to communicate directly with interested parties and community groups, as listed below. Staff intends to seek applicants from the groups listed below but does not wish to limit the composition of the CAC to designated interests.

- Diversity Center
- Senior Center
- Service/Construction Union Groups
- Latinx Community Groups
- NAACP
- Cabrillo College
- Spiritual Organizations
- Family Resource Groups (e.g. United Way, First Five)
- Mental Health Groups (e.g. NAMI, Alcoholics Anonymous, Narcotics Anonymous)

Staff intends to change the membership requirements and application form for this recruitment. The new application will require that applicants be at least 18 years of age and reside in the sphere of influence of Capitola (Capitola, Aptos, Soquel, Live Oak, etc.). Staff hopes to generate increased interest and application numbers by altering the requirements. Staff will determine the Committee size based on the number and strength of applications.

Staff proposes to conduct recruitment for eight weeks. Applications will be available in hard copy at the Police Department, City Hall, the Capitola Branch Library, and the Community Center. In addition, an online application submittal will be created and available for the CAC. A link to the application will be available in the recruitment materials.

Staff also intends to amend Police Policy #217 to include an annual presentation of the CAC workplan to the City Council. For this first year, Chief Dally anticipates the proposed workplan will include such topics

as Unmanned Aircraft System (UAS) Policy, Automated License Plate Reader Camera Program, oversized vehicle parking review, website suggestions, and a review of mental health issues in the community.

Fiscal Impact: Outreach costs are estimated at \$3,000. When staff returns to the City Council to present the annual CAC Workplan, an update will be provided on costs for the recruitment and appointment process.

Attachments:

1. CPD Policy #217
2. Revised Application for Re-Recruitment
3. Watsonville, Chico, and Santa Cruz Committee Documents

Report Prepared By: Andrew Dally, Chief of Police

Reviewed By: Julia Gautho, City Clerk

Approved By: Jamie Goldstein, City Manager

Policy 217 Police Chief's Community Advisory Committee

217.1 PURPOSE AND SCOPE

The Capitola Police Department is committed to community policing. This policy outlines the Police Chief's Community Advisory Committee (CAC) organization, duties, and function of the Committee. The Committee is assigned to the Office of the Chief of Police and supported by that office.

217.2 POLICY

The Police Chief's Community Advisory Committee (CAC) is designed to create a link to the community and the Capitola Police Department. It is intended to serve as a mechanism for members of the public to learn about police initiatives, understand police policy, and to provide input on police operations. It is also an opportunity for the Chief of Police and the department to hear about concerns, issues, and challenges brought forward by members of the committee.

The CAC will act as a sounding committee for the Chief regarding community needs and concerns, keep the Chief apprised of the community's need for police service and assist in educating the community-at-large about the function and role of the Capitola Police Department. Areas such as significant community issues, program review, and community outreach assistance are all within the committee's realm of responsibility.

Although the CAC is expected to be proactive, it will not have any power or authority to investigate, review, or otherwise participate in matters involving specific police personnel or specific police-related incidents. It will not receive, or review complaints initiated against personnel of the Capitola Police Department, nor play any role in civil or criminal litigation. The CAC will act solely in an advisory capacity and will be driven by the creativity and vision of its members; it is intended to be an expression of the Capitola community's viewpoints.

217.3 COMMITTEE SELECTION AND COMPOSITION

The Police Chief's Community Advisory Committee (CAC) will consist of 6-8 key stakeholders, comprised of a diverse cross-section of active community members throughout the City of Capitola. These members will represent a range of interests and experience, which may include business owners, educational leaders, non-profits, public relations, faith community, youth representation, and more.

Members must be Capitola residents or business owners and are selected from the pool of applicants by the Chief of Police. Members are chosen to serve on the committee for their professionalism, integrity, and commitment to their community. The term for committee members is limited to two years to allow for greater participation by all interested parties. Extensions for sitting on the committee will be considered on an individual basis at the discretion of the Chief of Police.

Members may be removed for cause prior to the end of their term by a majority vote of the committee or at the discretion of the Chief of Police. Additionally, members who fail to attend three regular committee meetings in a year may be reconsidered to have vacated their position and may be replaced.

Members of the CAC acknowledge that service is strictly on a volunteer basis and members will not receive any form of compensation. In addition, all members will be subject to a criminal history background investigation prior to appointment to the CAC.

217.4 TERM OF COMMITTEE MEMBERS

The term for each member of the Committee shall be at the sole discretion of the Chief of Police. The Chief of Police, may at their sole discretion, open the application process at any time to increase the diversity of the committee members, replace members who have separated, or any other reason.

217.5 DUTIES OF COMMITTEE MEMBERS

1. The Police Chief's Advisory Committee will review significant community issues and make recommendations regarding potential resolutions to the Chief of Police.
2. Member of the Police Chief's Advisory Committee may assist in community outreach efforts.
3. The Police Chief's Advisory Committee relies upon the authority of the Chief of Police and performs an advisory role only. Recommendation made by the Committee are not binding on the Chief of Police. The Chief of Police answers to the City Manager. In addition to the City Manager, the City Council and the community hold the Chief of Police accountable for the operation of the Police Department.

217.6 MEETINGS

- 1) The Police Chief's Advisory Committee will meet at a time and place as directed by the Chief of Police. This is to allow for flexibility and ease when meeting in the community as well as organizational needs.
- 2) Four (4) unexcused absences by a member of the Police Chief's Advisory Committee during an one (1) calendar year will result in the removal of that member from the Committee.

217.7 COMMITTEE CHAIRPERSON

The Police Chief's Advisory Committee shall elect a chairperson. This position will serve at the pleasure of the Chief of Police. In case of a vacancy, the Chief of Police will select a successor. The Chairperson will assist with the organization and logistics regarding the activities of the Committee.

217.8 COMPENSATION

Public members selected to the Police Chief's Advisory Committee will serve without compensation from the City of Capitola.

217.9 CONFIDENTIALITY

- 1) Matters relating to personnel issues are governed by various law of the State of California and the City of Capitola as well as various labor contracts. Personnel matters are confidential.

- 2) No members of the Police Chief's Advisory Committee may divulge any information regarding a personnel matter that has been deemed confidential by the Chief of Police.
- 3) Every new member of the Police Chief's Advisory Committee, prior to any hearing any personnel matter, must sign an agreement, as prepared by the City Attorney, agreeing, and promising to maintain the confidentiality of any personnel matter.
- 4) Only the Chief of Police or City Manager (or City Manager representation), with the advice of the City Attorney, has the authority to determine what information related to any personnel matter may be public.

217.10 POLICY MODIFICATIONS

Nothing in the policy shall preclude the Chief of Police from modifying, or the Police Chief's Advisory Committee from recommending modification, to any portion of this order.



CITY of CAPITOLA

POLICE CHIEF ADVISORY COMMITTEE APPLICATION

The Capitola Police Chief's Advisory Committee is meant to serve as a link to the community and the Police Department. It will serve as a mechanism for members of the public to learn about Police initiatives, understand Police policy, and provide input on Police operations.

Name: _____
Last *First*

Telephone: _____
Home *Cell*

E-mail Address: _____

Residential Address: _____

Mailing Address: _____

Are you a resident of the City of Capitola? Yes No

What relevant experience or education can you bring to this Committee?

Please identify areas of interest or concern relating to modern policing that you would be interested in discussing as a member of this Committee.

Email to: adally@ci.capitola.ca.us

Mail or Deliver Application to:
Capitola Police Department
Attn: Police Chief
421 Capitola Avenue, Capitola, CA 95010



CITY of CAPITOLA POLICE CHIEF ADVISORY COMMITTEE APPLICATION

Do you belong to any local community organizations or associations?

Meeting dates/times will be established by a majority of the Committee. Are there any days/times you are **not** available for meetings?

What additional comments do you have to assist in evaluating your qualifications for appointment to this Committee?

(Use additional paper, if necessary)

Email to: adally@ci.capitola.ca.us

Mail or Deliver Application to:
Capitola Police Department
Attn: Police Chief
421 Capitola Avenue, Capitola, CA 95010

Are you at least 18 years of age? Yes No

Have you ever applied to work for the City of Capitola? Yes No

If yes, in what capacity? _____

I certify that the statements made by me in this application are true, complete, and correct to the best of my knowledge. I understand that falsification, misrepresentation, or omission of facts called for by the application could result in immediate disqualification or dismissal from this program. Yes No

I acknowledge that if appointed to this Committee, I may be required to attend or participate in training relevant to the Committee. Yes No

Date

Signature of Applicant

It is the policy of the City of Capitola that no qualified disabled person will be denied the opportunity to participate as a member of the Committee. Appropriate arrangements will be made to accommodate individuals as needed.

Email to: adally@ci.capitola.ca.us

Mail or Deliver Application to:
Capitola Police Department
Attn: Police Chief
421 Capitola Avenue, Capitola, CA 95010



CIUDAD *de* CAPÍTULO

SOLICITUD PARA EL COMITÉ DE CONSEJO AL JEFE DE POLICÍA

El Comité Asesor del Jefe de Policía de Capitola está destinado a servir como un enlace con la comunidad y el Departamento de Policía. Servirá como una sistema para que los miembros del público aprendan sobre las iniciativas de la Policía, comprendan la política policial y proporcionen información sobre sus operaciones.

Nombre: _____
último *primero*

Teléfono: _____
Casa *celular*

Dirección de correo electrónico: _____

Dirección residencial : _____

Dirección postal : _____

¿Es usted residente de la Ciudad de Capitola? Sí No

¿Qué experiencia o educación relevante puede aportar a este Comité?

Por favor señalar temas de interés o preocupaciones relacionadas con la vigilancia policial que le gustaría tratar como miembro de este Comité.

Correo electrónico a: adally@ci.capitola.ca.us

Envíe o entregue la solicitud a:
Capitola Police Department
A la atención de: Chief of Police
421 Capitola Avenue, Capitola, CA 95010



PORTADA CIUDAD *de* CAPÍTULO SOLICITUD PARA EL COMITÉ DE CONSEJO AL JEFE DE POLICÍA

¿Pertenece a alguna organización o asociación comunitaria local?

Las fechas y horarios de las reuniones serán establecidos por mayoría del Comité. ¿Hay algún día/horario que Ud. **no esté** disponible para las reuniones?

¿Qué comentarios adicionales tiene para ayudarnos a evaluar sus calificaciones para ser miembro nombrado de este Comité?

(Si es necesario, utilice más papel)

Correo electrónico a: adally@ci.capitola.ca.us

Envíe o entregue la solicitud a:
Capitola Police Department
A la atención de: Chief of Police
421 Capitola Avenue, Capitola, CA 95010

Tiene al menos 18 años de edad? Sí No

¿Alguna vez ha solicitado trabajar para la Ciudad de Capitola? Sí No

En caso afirmativo, ¿en qué oficio? _____

Certifico que las declaraciones que hice en esta solicitud son verdaderas, completas y correctas a mi leal saber y entender. Entiendo que la falsificación, tergiversación u omisión de los hechos solicitados en la solicitud podría resultar en la descalificación o el despido inmediato de este programa. Sí No

Reconozco que si soy nombrado miembro de este Comité, es posible que deba asistir o participar en capacitaciones relevantes para el Comité. Sí No

Fecha

Firma del solicitante

Es política de la Ciudad de Capitola que a ninguna persona discapacitada calificada se le niegue la oportunidad de participar como miembro del Comité. Se harán los arreglos apropiados para acomodar a las personas según sea necesario.

Correo electrónico a: adally@ci.capitola.ca.us

Envíe o entregue la solicitud a:
Capitola Police Department
A la atención de: Chief of Police
421 Capitola Avenue, Capitola, CA 95010

Police Community Advisory Board

219.1 PURPOSE AND SCOPE

This order explains the organization, duties, and function of the Police Community Advisory Board.

219.2 POLICY

The Police Community Advisory Board is designed to be a link between the community and its police department. It is a simple mechanism to facilitate and enhance communication between the police department and the community. The Police Community Advisory Board will allow, on a consistent basis, for a non-law enforcement or broader community view to influence local law enforcement services.

The Chico Police Department will utilize the Police Community Advisory Board for the purpose of reviewing and making recommendations to the Chief of Police on matters pertinent to the Police Department. Areas such as significant community issues, budget and program review, and community outreach assistance are all within the board's realm of responsibility.

219.3 APPOINTMENT OF BOARD MEMBERS

- (a) The Police Community Advisory Board will be comprised of community members who are representative of the following:
 - 1. The diverse cultural makeup of the community
 - 2. Representation of community leaders and organizations that serve our multicultural community.
 - 3. City Council Representative (Current Council Member):
- (b) Selected representatives should be either residents within or employed at a location within the Chico area "sphere of influence."
- (c) The intent of this composition is to form a diverse group of people of a manageable size who represent stakeholders in the community to evaluate and make recommendations to the Police Department through the Chief of Police.
- (d) Ad Hoc committee members may be appointed by the Advisory Board as specific needs arise.
- (e) Selected members will be subject to a background check by Police Department staff.
- (f) Selected members serve at the pleasure of the Chief of Police, and will be replaced at the request of the Chief of Police.

219.4 APPLICATION PROCESS

- (a) When a vacancy exists on the Board, such vacancy will be announced by the Police Department and a replacement in the "sphere of influence" will be sought.

Police Community Advisory Board

- (b) Individuals interested in being selected to the Board shall complete and submit an application to the Police Department.
- (c) Applications will be reviewed by the Chief of Police, interviews may be conducted, and appointments will be made as appropriate.

219.5 TERM OF BOARD MEMBERS

- (a) The term for each board member shall be at the pleasure of the Chief of Police.
- (b) Should a member discontinue their affiliation with the organization they represent, their membership on the Police Community Advisory Board will automatically expire and a replacement representative will be selected by the Chief of Police.

219.6 DUTIES OF BOARD MEMBERS

- (a) The Police Community Advisory Board will review significant community issues and make recommendations regarding potential resolutions to the Chief of Police.
- (b) The Police Community Advisory Board may assist with the budget process through review, program evaluation and priority recommendation.
- (c) Members of the Police Community Advisory Board may assist in community outreach efforts.
- (d) The Police Community Advisory Board relies upon the authority of the Chief of Police, and performs an advisory role only. Recommendations made by the Board are not binding on the Chief of Police. The Chief of Police answers to the City Manager. In addition to the City Manager, the Chief of Police is held accountable by the City Council and the community in general for the operation of the Police Department.

219.7 ORGANIZATION

- (a) The Police Community Advisory Board is a branch of the Office of the Chief of Police.
- (b) Staffing and clerical support for the Police Community Advisory Board will be assigned by the Chief of Police.
- (c) The Police Community Advisory Board will create a Mission Statement and will update or evaluate this statement on a yearly basis.
- (d) Meeting agendas and Meeting Minutes will be prepared and approved by the Board.
- (e) The Chief of Police will be responsible for completing the Police Community Advisory Board Annual Report after seeking input and recommendations by the Board.

Police Community Advisory Board

219.8 MEETINGS

- (a) The Police Community Advisory Board will meet at a time and place as directed by the Chief of Police. This is to allow flexibility and ease when meeting in the community as well as organizational needs.
- (b) Meetings can be open to the public when it is appropriate for community engagement. Discretion for public meetings will be at the discretion of the Chief of Police
- (c) Four (4) unexcused absences by a member of the Police Community Advisory Board during any one (1) calendar year will result in the removal of that member from the Board.

219.9 OFFICERS OF THE BOARD

- (a) The Police Community Advisory Board shall elect a chairperson. This position will serve at the pleasure of the Chief of Police.
- (b) In case of a vacancy, the Chief of Police will select a successor.

219.10 COMPENSATION OF BOARD MEMBERS

- (a) Public members selected to the Police Community Advisory Board will serve without compensation from the City of Chico.

219.11 CONFIDENTIALITY

- (a) Matters relating to personnel issues are governed by various laws of the State of California and the City of Chico as well as various labor contracts. Personnel matters are confidential. No member of the Police Community Advisory Board may divulge any information regarding a personnel matter that has been deemed confidential by the Chief of Police.
- (b) Every new member of the Police Community Advisory Board, prior to hearing any personnel matter, must sign an agreement, as prepared by the City Attorney, agreeing and promising to maintain the confidentiality of any personnel matter.
- (c) Only the Chief of Police or City Manager (or City Manager's representative), with the advise of the City Attorney, has the authority to determine what information related to any personnel matter may be made public.

Police Community Advisory Board

219.12 POLICY MODIFICATIONS

- (a) Nothing in this policy shall preclude the Chief of Police from modifying, or the Police Community Advisory Board from recommending modification, to any portion of this order.



Applications are being accepted to serve on the Santa Cruz Chief's Advisory Committee. This new advisory committee will work to improve police services to Santa Cruz and build a stronger and more vibrant working relationship between the police and all willing segments of the community. Improvement could include recommendations of policy, training and programs.

Members of this Advisory Committee should consist of a diverse group of individuals from a variety of disciplines and organizations to include social services, mental health, minority, business, labor, community and civic groups. Their goal is to provide guidance and direction to the Chief of Police as the Department moves forward.

Qualifications

1. Have knowledge of public safety and community policing practices.
2. Read, write and speak English to support the reading and analysis of reports.
3. Ability to work collaboratively with people of diverse perspectives and experience.
4. Desirous of improving police service to the Santa Cruz community.
5. Persons serving on the committee must be at least 18 years of age and a resident of, property owner in or own a business within the City of Santa Cruz.
6. Cannot have a felony conviction.
7. Person is objective and open to learning about policing.
8. Represent a segment of the Santa Cruz community.
9. Married couples and domestic partners cannot serve at the same time.
10. Current or former members of SCPD are not eligible to serve.

Application Process

Applicants must submit their application to the Chief of Police at Santa Cruz Police Department, 155 Center Street, Santa Cruz, CA 95060. Contact Administrative Assistant, Kimberlee Steele at 831-420-5813, or ksteele@cityofsantacruz.com. Members are subject to a criminal background check.

City of Santa Cruz

Chief's Advisory Committee Application Form

(Please print and complete)

Name:

Mailing address:

Email address:

Occupation:

Phone Number Home:

Cellular Phone:

Tasks:

1. Please attach a bio, Curriculum Vitae or resume.
2. Please list two references that are knowledgeable about your skills and perspectives related to serving on the Chief's Advisory Committee.

Name: _____ Phone: _____
 Email: _____

Name: _____
 Phone: _____ Email: _____

On a separate piece of paper, submit your responses to the questions listed below. Please keep your responses to no more than 3-4 paragraphs each.

1. Please list your skills and knowledge that would be relevant to this advisory committee.
2. CAC members are charged with developing public safety recommendations - this may challenge your personal perspective - describe how you would handle such challenges if they were to arise.
3. Describe how your presence on this committee would represent a substantial segment of the community.
4. Describe how you have shown the ability to think and discuss public safety topics objectively.

Santa Cruz Chief's Advisory Committee

Purpose and Objectives

I. Purpose

The purpose of the Chief's Advisory Committee (CAC) is to give oversight, counsel, support and guidance to the Chief of Police for the purpose of improving transparency and fostering stronger relationships with the community the Santa Cruz Police Department serves. Specifically the CAC will examine the police budget, policy and procedures, and personnel complaints. The CAC as directed by the Chief of Police will also review all officer-involved shootings, all in-custody deaths and all police actions that result in the death of a person.

II. Policy Recommendation

It is the objective of the CAC to advocate for policies which promote fair and humane policing and also ensure the safety of citizens and police officers. Subsequent to the review and examination process, the CAC may recommend improvements in budget, policy, procedures and training of police personnel to the Chief of Police.

III. Committee Size

The committee will consist of fifteen (15) persons

One chairperson, two Deputy Chief's and fifteen at large members. Members will be limited to a two year term by appointment of the Mayor, City Manager and Chief of Police.

IV. Terms of Service

Members will serve a two year term, which will be renewed only by approval of the Chief of Police, City Manager and Mayor. There is no monetary compensation made to members for their service. Members are expected to commit at least 4 hours per month to this committee.

Members are expected to attend each meeting and leave is permitted in the following circumstances:

- A. An unforeseen event
- B. Illness or death
- C. Out of town travel
- D. Religious observance

V. Committees

The CAC will have three standing committees: Budget, Policy and Personnel. Each CAC member will serve on a committee and make presentations to the greater board, the public or City Council as needed.

Item 9 B.

VI. Outreach

The CAC is responsible for reaching out to educate communities they represent and bring issues, grievances and complaints to the Chief and greater CAC. Only the Chair will make public comments in issues that require public comment.

VII. Ethical Conduct

Members of CAC are to promote public trust, integrity and transparency and are expected to the National Association for Civilian Oversight of Law Enforcement (NACOLE) code of ethics. Personal integrity includes a commitment to independent and thorough oversight, transparency and confidentiality, respectful and unbiased treatment, outreach and relationship with stakeholders, agency self-examination and commitment to policy review. Actual or perceived conflicts of interest during case review shall be acknowledged and the party with interest shall recuse themselves from review and or comment.

VIII. Resignation and Removal

A person resigning shall send a letter to the Chair of the CAC board. The letter can be made public unless a request to keep it confidential is made to the Chair.

The Chair or the Chief of Police in consultation with the City Manager and Mayor may remove a person from the CAC for cause including but not limited to : Misuse of position or police documents; violations of state laws concerning confidentiality; conviction of any felony crime or a crime of moral turpitude while serving as a CAC member; misconduct that impedes the members ability to serve as a CAC member; unacceptable attendance record at CAC meetings; a violation of the NACOLE code of ethics; or an undisclosed conflict of interest.

IX. Meetings

Meeting shall be held once a month to carry out the objectives and purpose of the CAC. They shall be held at a scheduled time or called by the CAC Chair.

- A. Closed Meetings- Meetings shall be held monthly pursuant to government code 54957 to provide a confidential environment in which to review citizen complaints brought against SCPD officers and personnel in accordance with 832.7 PC or to discuss personnel or other matters that are specifically exempt from public disclosure by law. Attendance is limited to CAC members and staff as necessary as designated by the Chief of Police and or City Attorney.

- B. Open Meetings- Meetings held monthly shall have a portion of that meeting open to the public should they desire to attend. It provides a forum to communicate to the public and to educate the community on the processes of the police department. Item 9 B.
- C. Special Meetings - Meetings can be called by the Chair as needed and may be open or closed depending on the nature of the discussion.

X. Voting

The purpose of the CAC is to provide the Chief of Police with advice, counsel and broad community input. Suggestions will be moved forward based on CAC consensus. If consensus cannot be established, a majority vote can be moved to the Chief for consideration.

CHIEF'S ADVISORY BOARD

PURPOSE AND MISSION

The Chief's Advisory Board model is being used by many police organizations across the state and has proved to be a successful tool to help the police chief understand the concerns of the community.

The Chief's Advisory Board (CAB) is established under the direction of the Chief of Police. The Board is intended to provide a forum for discussions concerning community concerns, and the goal is to have a broad spectrum of community viewpoints represented. Members of the Board should be community members including, but not limited to, seniors, educators, faith-based, LGBTQ+, non-profits, and business owners. The Board will also have the opportunity to be aware and understand how the Watsonville Police Department polices problems in our community, participate in police "ride-alongs," learn how and what training is provided to officers, and how we hire police department staff.

The Watsonville Police Department is committed to the ideology of community policing. To that end, the mission of the Chief's Advisory Board is to act as a resource for the Chief of Police in the formation of strategies, development of policing concepts, and increasing public awareness regarding policy issues. The Board acts solely in an advisory capacity and will be driven by the creativity and vision of its members; it is intended to be an expression of the Watsonville community's viewpoints. To carry out its purpose, the Board will address overcoming problems associated with police-community relations, the improvement of the Watsonville Police Department's operations, and public safety issues to further enhance the quality of life in our community.

The group will act as a sounding board for the Chief of Police regarding community needs and concerns, keep the Chief apprised of the community's need for police services, and assist in educating the community at large about the function and role of the Watsonville Police Department. Commitment to the Board does not mean that the group will have the power or authority to investigate, review or otherwise participate in matters involving specific police personnel or specific police-related incidents. It will not receive or review complaints initiated against personnel of the Watsonville Police Department nor play any role in civil or criminal litigation.

The Board will also focus on contemporary challenges, which include the following examples:

- Use of Force • Mental Health Response • Criminal Activity and Trends • Transparency • Homelessness
- Technology • Community Outreach and Engagement • Crime Prevention • Neighborhood Programs.

Download application [HERE](#)

SCOPE AND ROLE

The following guidelines and expectations shall govern the scope and role of the Chief's Advisory Board:

- a. It is desired that CAB members participate in open discussions with each other and the WPD staff regarding local community concerns and priorities on public safety issues.
- b. CAB members are expected to treat each other with dignity and respect.
- c. CAB will collectively represent the voice of the community. As such, it is expected that CAB members participate in the Panel in furtherance of the greater good for the Watsonville community and refrain from promoting personal agendas or motives.

CONDUCT OF MEETINGS

- a. Regular meetings shall be held every other month and shall be set by the Chief of Police in collaboration with CAB members. The Chief of Police may schedule additional meetings as determined necessary.
- b. Unless otherwise noted, regular meetings will be held at the Watsonville Police Department. Meetings may also be held at other locations within the community if determined feasible and appropriate at the discretion of the Chief and the CAB.
- c. Regular attendance at the CAB meetings is mandatory. CAB members must have no more than three (3) absences in twelve months. Failure to maintain regular attendance may result in removal from the CAB.
- d. Police Department staff will be responsible for providing adequate staff support for board meetings, including setting an appropriate agenda and providing necessary supporting materials for each meeting as approved by the Chief of Police.
- e. CAB discussions should be focused, timely, and within the parameters of the meeting agenda to ensure board meetings remain efficient and effective. The purpose of the agenda is to provide structure and focus for panel discussions.

COMPOSITION OF THE CHIEF'S ADVISORY BOARD

- a. The total number of members of the Board shall be 8 persons. However, the Chief of Police shall have the discretion to hold Board meetings with fewer members.
- b. Members shall not receive compensation for their service on the Board, and participation is voluntary.
- c. It is desired that Members be representative of a diverse community within the City of Watsonville.

CHIEF'S ADVISORY BOARD MEMBER TERMS

At the discretion of the Chief of Police, and in consultation with the CAB members, a member may be removed/excused from participation for the remainder of their term for the following reasons: excessive absences at Board meetings; repeated instances of substantial disruption that impedes the proceedings of CAB meetings; or continued refusal to participate or contribute at meetings. Upon any such vacancy, the Chief may, but is not required to, appoint a new Board member to serve out the remainder of the term.

CHIEF'S ADVISORY BOARD MEMBER SELECTION PROCESS

a. To be eligible for consideration, applicants must satisfy the following minimum requirements:

1. Minimum of 18 years of age;
2. A current resident or business owner in the City of Watsonville;
3. Submit a completed application to the Watsonville Police Department.

b. In addition to the above eligibility requirements, ideal candidates will have demonstrated enthusiasm and commitment to the Watsonville community. Applicants are encouraged to explain their interest in serving on the Board and any possible relevant community memberships or qualifications on their application to ensure the Chief appoints the broadest possible group of diverse and committed community members to serve on the CAB.

c. Applications shall be accessible online or upon request at the front counter of the Watsonville Police Department. Completed applications can be hand-delivered, emailed to police@watsonville.gov, or mailed to the attention of the Chief of Police at the Watsonville Police Department located at 215 Union Street, Watsonville, CA 95076.



CAPITOLA POLICE CHIEF'S ADVISORY
COMMITTEE (CAC) REPORT FOR CITY COUNCIL

Andrew Dally, Chief of Police

CRIMINAL JUSTICE COUNCIL – SANTA CRUZ

2020 – Following the death of George Floyd, many communities began discussions regarding police policies and procedures.

2021 – Criminal Justice Council of Santa Cruz County (Chief McManus and Councilmember Brown)
“Santa Cruz County Regional Public Safety Agency Policy Review”

Widespread Policy Alignment in Santa Cruz County and all agencies have:

1. Banned choke holds
2. Prohibited no knock warrants
3. Require a duty to intervene
4. Banned shooting at or from a vehicle
5. Require de-escalation
6. Require less lethal options prior to deadly force when reasonable
7. Require a warning before deadly force is deployed when reasonable
8. Require implicit bias training
9. Release body-worn camera footage of officer-involved shootings

2021 – CPD BEGAN RESEARCHING CHIEF ADVISORY BOARDS

- Following the CJC Review, under Chief McManus
 - Began researching Chief Advisory Boards/Commission for Capitola
 - 2021 Sergeant's Promotion – Research paper on CACs
 - Reviewed multiple agencies policies ranging from small, medium, and large agencies
 - Reviewed Chico Police, Santa Cruz Police, and Watsonville Police polices and procedures
 - Interviewed Chief Mike Madden, Chief Bernie Escalante, and Chief Jorge Zamora
 - Developed CPD Policy #217



CHIEF'S ADVISORY COMMITTEE VS. OVERSIGHT BOARD

CHIEF ADVISORY COMMITTEE

Community Advisory Boards/Committees are groups of community representatives who meet with a policing agency to discuss public safety and is intended to focus on building community partnerships, discuss police policy, and work proactively to address potential problems.

POLICE OVERSIGHT BOARDS

Police Oversight Boards are implemented to help oversee sheriff and police departments. Oversight boards are a mechanism for the board to investigate allegations of misconduct, recommend discipline, and to advise the department on policy review and accountability.

GOALS AND OBJECTIVES OF CAC

CAPITOLA POLICE CHIEF'S ADVISORY COMMITTEE



- Department's Mission to collaborate with the community to make Capitola a better and safer place for **ALL** its residents, business community, and visitors.
- Capitola PD highly values our partnerships with the community and recognizes having public engagement contributes to a successful law enforcement agency.
- CAC members will advise Chief on community issues and public policies which influence or impact ongoing relationships between CPD and the community.
- CAC members will not have the power or authority to investigate, review, or otherwise participate in matters involving specific personnel or play a role in criminal or civil litigation

TOPICS FOR CAC

CAPITOLA POLICE CHIEF'S ADVISORY COMMITTEE

Potential topics for the Capitola Police Chief's Advisory Committee

- Unmanned Aircraft System (UAS) Policy
- Automated License Plate readers (FLOCK camera system and policy)
- Oversized vehicle parking review
- CPD website development
- Review of mental health services and issues in Santa Cruz County

COMMITTEE SELECTION AND COMPOSITION (POLICY 217.3)

CAPITOLA POLICE CHIEF'S ADVISORY COMMITTEE

- Goals for CAC Membership
 - Seeking a diverse representation of Capitola residents and business owners
 - We want to encourage a cross-section of active community members with a range of interests and experiences
(educational leaders, non-profit organizations, public relations, faith communities, and youth organizations)
 - Dedicated representatives of the community that are not influenced by personal agendas
 - Minimum of 4 and not more than 8 members for a 2-year term and quarterly meetings
 - Persons that are committed to the mission of the CAC and have the technical ability to understand policy and procedures
 - The membership is voluntary and will serve without compensation
 - Staff developed policy, qualifications, application, and working agreement

1ST RECRUITMENT

CAPITOLA POLICE CHIEF'S ADVISORY COMMITTEE

- **Recruitment began in July** – September (Goal of starting in October 2023)
- Posted on Facebook, Instagram, Nextdoor
- City Website – overview of program and Q&A section with application
- Article in Capitola Waves publications for July, August, and September

RESULTS

- 12 inquires and received 8 applications with follow up interviews to highlight the role, mission, and expectations of the newly formed committee.
- All 8 applications were accepted and approved to move forward to serve on the first committee

APPOINTMENT / REFLECTION / MORE RECRUITMENT

CAPITOLA POLICE CHIEF'S ADVISORY COMMITTEE

- October 6 – Staff announced the recruitment and selection of the 8 community members.
- Staff reflected on the composition and felt more outreach was needed.
- **CPD Policy 217.4**
 - Allows for the chief to re-open the application process at any time to increase the diversity of the committee members.
- Current CAC applications will be kept and processed with new applications
- Next Steps..... More Recruitment...More Outreach!

MOVING FORWARD – RECRUITMENT

CAPITOLA POLICE CHIEF'S ADVISORY COMMITTEE

- Reopen recruitment for another 2 months concentrating on Capitola's diverse community members
- Broaden the scope of applicants to allow for Capitola's "sphere of influence" to apply (Aptos, Capitola, Soquel, Live Oak)
- Translate application into Spanish. Repost application on City website and on all social media platforms
- Recruit by publishing information in local newspapers
- Post at City buildings and kiosks, Capitola Community Center, Capitola and Live Oak Libraries, mobile home parks, and service industry locations.

COMMUNITY GROUPS

CAPITOLA POLICE CHIEF'S ADVISORY COMMITTEE

Additionally, Staff will communicate directly with:

Santa Cruz County Diversity Center

Bay Avenue Senior Center

Service/Construction Union Groups

Latinx Community Groups

NAACP

Cabrillo College

Faith-based Organizations

Family Resource Groups (United Way, First Five)

Mental Health Groups (NAMI, Alcoholics Anonymous, Narcotics Anonymous)

FISCAL IMPACT

CAPITOLA POLICE CHIEF'S ADVISORY COMMITTEE

Staff estimates outreach efforts will cost approximately \$3,000. Staff intends on returning with the appointments, an annual working plan, and the costs associated with recruitment efforts.



RECOMMENDATIONS AND QUESTIONS

CAPITOLA POLICE CHIEF'S ADVISORY COMMITTEE

1. Receive report about the formation of the Capitola Police Chief's Advisory Committee;
2. Advise on new recruitment efforts, application and selection process.
3. Staff intends to extend recruitment efforts for two months and will conduct interviews and return to Council with appointments and any fiscal impacts.



Capitola City Council

Agenda Report



Meeting: October 26, 2023
From: Finance Department
Subject: FY 2023-24 City Fee Schedule

Recommended Action: Adopt a resolution amending the fee schedule for Fiscal Year (FY) 2023-24.

Background: On April 28, 2022, the City Council approved the formation of the Temporary Village Parking Committee (TVPC) and made appointments to the committee. The appointments consisted of three City residents, three Village business representatives, one member of the Finance Advisory Committee, and two members of the City Council.

The TVPC met seven times from May 2022 through Feb. 2023 to review and discuss parking meter rates, parking permits, parking signage, and renaming the Upper and Lower Beach & Village Parking lots. The TVPC is making the following recommendations for City Council consideration.

The TVPC made the following recommendation regarding parking permits:

- Add Holidays as a parking permit requirement on Fanmar/Terrace and the 300 block of San Jose Avenue (currently only restricted on weekends)
- Transferable permits – Hotels/Motels – increase from \$50 per year to \$365 per year, maximum of 10 permits allowable.
- Surf & Coffee Permits – increase from \$50 per year to \$55 per year and increase the number of permits from 75 to 100.

Discussion: In March 2023, the City Council received recommendations from the Temporary Village Parking Committee to increase parking meter and parking permit rates. On June 22, 2023, the City Council adopted Ordinance No. 1061 to implement the Committee's recommendations for parking meter rates. Following City Council adoption, the ordinance was certified by the California Coastal Commission. Changes to parking meter rates will take effect January 1, 2024.

The City's current FY 2023-24 Fee Schedule was adopted on June 22, 2023. Now that Ordinance No. 1061 has been certified by the California Coastal Commission, staff recommends amending the FY 2023-24 Fee Schedule to implement the Temporary Village Parking Committee's recommendations for parking permit fees. Changes to parking permit rates will take effect upon adoption of the proposed resolution, in anticipation of the sale of 2024 permits.

Fiscal Impact: If approved, annual parking permit revenue is estimated to increase \$3,500 to \$4,000.

Attachments:

1. FY 2023-24 Amended Fee Schedule
2. FY 2023-24 Amended Fee Schedule Comparison

Report Prepared By: Jim Malberg, Finance Director

Reviewed By: Julia Gautho, City Clerk

Approved By: Jamie Goldstein, City Manager

RESOLUTION NO. ____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
AMENDING THE CITY’S FEE SCHEDULE FOR
FISCAL YEAR 2023-24**

WHEREAS, the City Council adopted Resolution No. 4327 on June 22, 2023, adopting the City’s Fee Schedule for Fiscal Year 2023-24, including an increase to parking meter rates; and

WHEREAS, since that adoption the City has received final certification from the California Coastal Commission to increase parking meter rates; and

WHEREAS, staff is proposing to amend the FY 2023-24 Fee Schedule as follows:

- Village Preferential Permit – Hotels/Motels - \$365 per year
 - Increased from \$50 per year.
- Morning Village Parking Permit - \$55 per year
 - Increased from \$50 per year.

WHEREAS, the proposed fees do not exceed the cost of providing the related services,

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Capitola does hereby amend the City of Capitola Fee Schedule as shown in Exhibit A (Fee Schedule 2023-24) attached hereto.

BE IT FURTHER RESOLVED that the above fees become effective immediately upon adoption of this resolution.

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 26th of October 2023, by the following vote:

**AYES:
NOES:
ABSENT:
ABSTAIN:**

Margaux Keiser, Mayor

ATTEST:

Julia Gautho, City Clerk

Description	2023/2024 Amended Fee Schedule
MISCELLANEOUS FEES	
Administrative Decision Appeal Fee	\$593
Bingo Permit	\$71
Capitola Municipal Code	0.15 / page
Capitola Municipal Code Supplement Service (Per year)	\$0
Copies:	
1-5 copies	\$0
6 or more copies (per copy)	\$0.25 / page
Gov't Code § 81008 (Political Reform Act) statements/reports (Per copy)	\$0.10 / page
Video Tapes, Flash Drive, CD/DVD Production	Cost + \$57.21 1st Hour (Minimum) + \$28.60 / hour
Simple film permit	\$54
Major film permit	\$272
Entertainment Permit Application Fee	\$44
Single Event Permit	\$44
Minor Entertainment Permit	\$184
Regular Entertainment Permit	\$689
Pet Shops and Kennel License Fee (Municipal Code § 5.20.020) set only by ordinance	\$20
Returned Check Fee	\$44
Business License Overpayment Refund Fee (resolution 3532, ord 871)	\$0 (Set to -0- by Council in 2011)
Business License Late Payment Penalty Admin. Fee	\$35 + 10% each month late
Business License Application Fee (Reso. 3532)	\$25
Business License - Disability Access and Education Fee (State)	\$4
Temporary, Publicly Attended Activities, Application Fee (Municipal Code § 9.36.040)	\$34
Public Art (Total Building Valuation \$250,000 or more) (Municipal Code Chapter 2.58)	2% of TBV or 1% in lieu to City
Notice of Intent to Circulate Initiative Petition (Elections Code § 9103(b))	\$200.00
Bandstand Rental Fee	\$246 / 4 hrs or \$492 all day / deposit \$1,500
Outdoor Dining Rental Fees	
Parking Spaces	\$3,400 annually for each space or partial space
Sidewalks and non-parking spaces	\$18.00 per square foot annually
Outdoor Dining Maintenance Deposit	
Sidewalks and non-parking spaces	\$500
1-2 parking spaces	\$1,000
3-5 parking spaces	\$1,500
Notary Service Fees (State Code)	
Acknowledgment or proof of a deed, or other instrument, to include the seal and writing of the certificate	\$15 / signature
Administering an oath or affirmation to one person and executing the jurat, including the seal	\$15 / signature
Credit Card Transaction Fee	3%
Electric Vehicle Charging Fee	\$0.50 / hour
Cannabis Annual License Fee	\$2,827
Retail Cannabis Application Fee	\$1,843

Description	2023/2024 Amended Fee Schedule
POLICE DEPARTMENT FEES	
Special Event Permit	\$68
Amplified Sound Permit (Municipal Code 9.12.040)	\$32
DUI Cost Recovery Fee (Res. 3533)	Not to exceed \$12,000
Copies of reports: Crime Reports, Special Reports, etc. (Regardless of number of pages)	\$0.25 / page
Copies of: Citations, Code sections, Ordinances, etc.	\$0.25 / page
Bicycle Licenses (New)	\$0
Bicycle Licenses (Renewal)	\$0
Citation Sign-Offs	\$0
Photographs	\$20 + administration fees
VIN verifications	\$18
Video Tapes, Flash Drive, CD/DVD Production	Cost + \$57.21 1st Hour (Minimum) + \$28.60 / hour
Firearm Dealer License - City Application	\$100
Local Firearm dealers (set by state)	
New application	set by state
Renewal	set by state
Second Dealers License (set by state)	
Application	set by state
Renewal	set by state
Taxi Fee per application	set by state
Tobacco retail license	\$289
Civil Subpoena (per case) (set by state)	set by state
Parking Permits (separate action by the Council)	
Neighborhoods per year (Resolution No. 3733)	\$25
Village Preferential Permit (Resolution No. 3733)	\$50 per year
Village Preferential Permit - Hotels/Motels (Resolution No. 3733)	\$365 per year
Village Employer/Employee Permit (Resolution No. 3733)	\$50 per year
Morning Village Parking Permit (Resolution No. 3715)	\$55 per year
Carrying a Concealed Weapon (CCW) Permit - City Application	\$115
Concealed Weapon Permits (set by state)	
Application	
Standard	set by state
Judicial	set by state
Employment	set by state
Renewal	
Standard	set by state
Judicial	set by state
Employment	set by state
Firearm Surrender Fees (set by state law)	
1-5 guns	set by state
6+guns	set by state
Vehicle Storage per day	\$30
Administrative fee to release Impounded / Stored Vehicle	\$145
Surf School Permit Fee	\$594

Description	2023/2024 Amended Fee Schedule
PUBLIC WORKS DEPARTMENT FEES	
Encroachment Permits	
Revocable Encroachment Permit - Outdoor Dining	\$230
Non-Construction Items (includes materials storage within right-of-way road and sidewalk closures)	\$75
Village Sidewalk Encroachment Permit	\$44
Village Parking Space Encroachment Permit (annually)	\$3,400
Construction Items	
Level A	\$227
Level B	\$503
Level C	\$1,004
Level D	\$1,633
Level E	\$2,263
Residential Blue Curb Application Fee	\$237
Residential Blue Curb Annual Fee	\$60
Blanket Permits (repair and maintenance of existing facilities)	\$2,513
Private Improvement Permits/Encroachment Agreement	
Applications for Minor Permits	\$251
Applications for Major Permits	\$629
New Memorial Bench	\$1,137
Replacement Memorial Bench	\$554
Memorial Plaque	\$854
Replacement Plaque	\$277
Memorial Plaque (tree)	\$545 + Cost of Tree
Memorial Picnic Table	\$1,822
Seasonal Boat Storage Permits	
Seasonal Permit	\$400 per month
Short Term Permit	\$15 per day
Stormwater Development Review Fee	
Stormwater Plan Review Fee	\$124
Large Project Plan Review Deposit	
Tier 2	\$3,771
Tier 3 & 4	\$5,028
Research Fee - 1/2 hour minimum charge	Cost
Information Technology Fee (Resolution No. 3786 adopted 11/12/09)	5% of Permit Fee
Final Map	Cost; \$3,000 min. deposit

Description	2023/2024 Amended Fee Schedule
PLANNING FEES	
Administration/Documents	
Continuance Request - Applicant (2+)	\$185
Staff Billing Rate	Cost
Appeals-by Applicant	Cost
Appeals- by City Officials	\$0
Appeals- by Other	\$594
Coastal Development Permit Appeal	\$0
Appeals -Building/Zoning Code Violations	\$594
Records Search/Research/Special Report	Cost
Administrative Permits	
Tree Removal- Staff-Review	\$150
Tree Removal -- 3 or more trees on a property	\$323
Tree Installation Deposit (Refundable)	\$500 Deposit
Tree replacement in-lieu fee (if available)	\$600 per tree
Tree removal w/ PC approval	\$1,000 deposit
Commercial Sidewalk/Parking Lot Sale Permit	\$89
Tenant Use Permit (MCUP)--Staff approval	\$90
Transient Rental Occupancy Use Permit	\$629
Home Occupation Use Permit	\$189
Fence Permit- Staff approval	\$50
Fence Permit- PC approval	\$943
Sidewalk vendor permit	\$138
Sidewalk vendor annual refuse fee	\$555
Temporary Sidewalk Dining	\$90
Temporary Use Administrative Permit	\$90
Sign Permits	
Temporary Signs and Banner Permits	\$45
Signs-permit - Staff Review	\$151
Signs- permit - PC Review	\$629
Master Sign Program	Cost; \$3,000 min deposit
Village Sidewalk Sign Permit	\$77
Design Permits	
Residential-Single Family/Minor Design Permit - Staff Review	\$919
Residential-Single Family - PC Review	\$3,143
Residential Multi-Family - PC Review	\$4,398
Commercial - PC Review	\$4,000 Deposit
Secondary Dwelling Unit- Staff Review	\$629
Secondary Dwelling Unit- PC Review	\$1,887
Residential Multi-Family/Minor Design Permit - Staff Review	\$2,000 deposit
Commercial Minor Design Permit	\$2,000 deposit
Historic In-Kind Replacement Design Permit	\$500 deposit
Outdoor Dining - Custom Deck	\$1,000 deposit
Use Permits	
Master Conditional Use Permit	Cost; \$3,500 min. deposit
Conditional Use Permit/Minor Use Permit - Staff Review	\$1,854
Conditional Use Permit - PC approval	Cost; \$3,000 min. deposit
Temporary Use Permit	\$94
Subdivisions	
Certificate of Compliance & Lot Merger	\$629
Boundary Line Adjustment	\$1,004
Tentative Parcel Map	Cost; \$2,000 min. deposit
Tentative Map	Cost; \$5,000 min. deposit
Revised Map	\$2,000 Deposit
Time Extension	\$2,000 Deposit
Subdivision Modification	\$2,000 Deposit

Description	2023/2024 Amended Fee Schedule
Plan Amendments	
General Plan Amendment	Cost; \$5,000 min. deposit
Local Coastal Plan Amendment	Cost; \$5,000 min. deposit
Rezone	Cost; \$5,000 min. deposit
Planned Development Rezone	Cost; \$3,500 min. deposit
Other Discretionary Permits	
Variance	\$1,887
PC review of minor modifications	\$1,696
Coastal Development Permit	\$943
Coastal Permit Exclusion	\$106
Mobile home Park Change of Use or Closure	\$5,000 Deposit
Development Agreement	\$10,000 min. deposit
Developer agreement annual review	\$2,500 deposit
Specific Plan	Cost; \$5,000 min. deposit
Permit Time Extension -Staff Review	\$629
Permit Time Extension - PC Review	\$1,887
Permit Amendment (any permit)	50% of original cost
Annexation	Costs+ overhead / \$3,000 min. deposit
Minor Modification	\$1,887
Environmental Review	
Negative Declaration (and Mitigated ND)	Cost; \$2,000 min deposit
EIR Processing	Cost; + 21% of consultant; \$10,000 min deposit
Mitigation/Condition Monitoring Program	Cost + 21%
NEPA Compliance	Cost + 21%
Other Permits/Fees	
Conceptual Review Fee- PC	\$1,887
Conceptual Review Fee- PC and CC	\$2,828
Technical Study Preparation and Review	Cost + 21%
NOTE: Third party review costs to be required as necessary	Cost + 21%
Code Compliance	Double Application Fees
Code Compliance confiscated property recovery fee	\$298
Research Fee - 1/2 hour minimum charge	Cost
Pre-Application Review	\$264
Building Plan Check & Final Inspection	20% of Building Permit Fee
Major Development Project Fee	Cost; \$5,000 min. deposit
Historical significance determination	\$4,250 deposit
Inclusionary Housing	
Inclusionary Housing - Unit Sale	\$629
Inclusionary Housing - Unit Refinance	\$252
Single Family Residence	\$2.50 per square foot
Other Fees and Assessments	
General Plan Maintenance Fee	Total Building Valuation X 0.5%
Information Technology Fee (Resolution No. 3786 adopted 11/12/09)	5% of Permit Fee
Green Building Educational Resource Fund Fee (Municipal Code 17.10.080)	Fee equals .0025 times the overall building permit valuation of the project.
Affordable Housing In-Lieu Fees	
For Sale Housing Developments of two to six units (Municipal Code Chapter 18.02) :	
All Units	\$25 per sq. ft.
For Sale Housing Developments of Seven or more units	
#Units	#Units Built
7	1
8-13	1
14	2
15-20	2
21	3
22-27	3
28	4
Rental Multi-Family	
	\$6 per sq. ft.

Description	2023/2024 Amended Fee Schedule
Affordable Housing Impact Fees	
For Sale Housing Developments of Six or Less Units	\$25 per square foot
Rental Multi-Family	\$6 per square foot
Additional to Housing Units of 50% or more (charged to additional square footage only)	\$2.50 per square foot

NOTES:

1. All Fees are non-refundable.
2. Deposit accounts are billed on a time and material basis. Additional deposits may be necessary depending on the complexity of the project. Any unused monies in a deposit account will be refunded following case closure.
3. The Community Development Director may reduce the total fee/deposit requirements for applications which are unlikely to require the full deposit amounts established herein.
4. Applications which include a fee and a deposit payment will be processed with a single deposit account.
5. Outside agency fees, including but not limited to County recordation fees, State Fish and Wildlife fees, etc. are charged at cost.
6. The Community Development Director may establish a reasonable fee or deposit amount for permit

Description	2023/2024 Amended Fee Schedule
BUILDING FEES	
<p>The cost of a “combination building permit” shall be 1.5 times the amounts shown in Table 1-A. A “combination building permit” is defined as a permit for a scope of construction work regulated by two or more of the model codes. The model codes are the building code, the plumbing code, the mechanical code and the electrical code.</p>	
<p>The cost of a “building permit” shall be the amounts shown in Table 1-A. A “building permit” is defined as a permit for a scope of construction work regulated solely by a single model code. The model codes are the building code, the plumbing code, the mechanical code and the electrical code.</p>	
TABLE 1-A	
Total Valuation	FEES
\$1.00 to \$500.00	\$29.55
\$501.00 to \$2,000.00	\$29.55 for the first \$500.00 plus \$3.83 for each additional \$100.00 or fraction thereof.
\$2,001.00 to \$25,000.00	\$87.00 for the first \$2,000.00 plus \$17.59 for each additional \$1000.00 or fraction thereof.
\$25,001.00 to \$50,000.00	\$491.57 for the first \$25,000.00 plus \$12.69 for each additional \$1,000.00 or fraction thereof.
\$50,001.00 to \$100,000.00	\$808.82 for the first \$50,000.00 plus \$8.81 for each additional \$1,000.00 or fraction thereof.
\$100,001.00 to \$500,000.00	\$1,249.32 for the first \$100,000.00 plus \$7.05 for each additional \$1,000.00 or fraction thereof.
\$500,001.00 to \$1,000,000.00	\$4,069.32 for the first \$500,000.00 plus \$5.97 for each additional \$1,000.00 or fraction thereof.
\$1,000,001.00 and up	\$7,054.32 for the first \$1,000,000.00 plus \$3.23 for each additional \$1,000.00 or fraction thereof.
Building Plan Check Fee	65% of Building Permit Fee
Reinspection Fee	\$0
Resubmitted Plan Check Fee	\$122.30 / hr.
Building Permit Extension Fee	\$0
Building Permit Reinstatement Fee	50% of the original, singular building permit fee or combo building permit fee, whichever is applicable to the permit being reinstated
Stop Work Order Fee	2x the singular building permit fee
Greywater System Permit	\$0

Description	2023/2024 Amended Fee Schedule
Electric Vehicle Charging Permits (* Note: These fees were added to the fee schedule for FY2011-12, but will be waived per the Green Energy Incentive Program)	
a. Level I (120 volts)	\$0
b. Level II (208-240 volts)	\$0
c. Level III (480 volts)	\$0
Solar P.V. System	\$0
Solar P.V. System (Commercial Sale/Distribution)	\$0
Solar Hot Water Heater	\$0
Research Fee - 1/2 hour minimum charge	Cost
Information Technology Fee (Resolution No. 3786 adopted 11/12/09)	5% of Permit Fee
Temporary Trailer/Mobile Home Occupancy Permit	\$0
Structural Review of Engineered Plans	cost + 21%
Outside Consultant Plan Review	cost + 21%
<u>Grading Plan Review Fees</u>	
50 cubic yard or less	\$ -
51 to 100 cubic yard	\$ -
101 to 1,000 cubic yards	\$ -
1,001 to 10,000 cubic yards	\$ -
10,001 to 100,000 cubic yards	\$60.36 for first 10,000 plus \$30.81 for each additional 10,000 cubic yards
100,001 to 200,000 cubic yards	\$337.69 for first 100,000 plus \$16.65 for each additional 10,000 cubic yards
200,001 cubic yards or more	\$487.57 for first 200,000 plus \$9.12 for each additional 10,000 cubic yards
<u>Grading Permit Fees</u>	
50 cubic yard or less	\$ -
51 to 100 cubic yard	\$ -
101 to 1,000 cubic yards	\$46.51 for first 100 plus \$22.01 for each additional 100 cubic yards
1,001 to 10,000 cubic yards	\$244.60 for first 1,000 plus \$18.23 for each additional 1,000 cubic yards
10,001 to 100,000 cubic yards	\$408.67 for first 10,000 plus \$82.97 for each additional 10,000 cubic yards
100,001 to 200,000 cubic yards	\$1,155.40 for first 100,000 plus \$45.88 for each additional 10,000 cubic yards

Description	2023/24 Adopted Fee Schedule
MISCELLANEOUS FEES	
Administrative Decision Appeal Fee	\$593
Bingo Permit	\$71
Capitola Municipal Code	0.15 / page
Capitola Municipal Code Supplement Service (Per year)	\$0
Copies:	
1-5 copies	\$0
6 or more copies (per copy)	\$0.25 / page
Gov't Code § 81008 (Political Reform Act) statements/reports (Per copy)	\$0.10 / page
Video Tapes, Flash Drive, CD/DVD Production	Cost + \$57.21 1st Hour (Minimum) + \$28.60 / hour
Simple film permit	\$54
Major film permit	\$272
Entertainment Permit Application Fee	\$44
Single Event Permit	\$44
Minor Entertainment Permit	\$184
Regular Entertainment Permit	\$689
Pet Shops and Kennel License Fee (Municipal Code § 5.20.020) set only by ordinance	\$20
Returned Check Fee	\$44
Business License Overpayment Refund Fee (resolution 3532, ord 871)	\$0 (Set to -0- by Council in 2011)
Business License Late Payment Penalty Admin. Fee	\$35 + 10% each month late
Business License Application Fee (Reso. 3532)	\$25
Business License - Disability Access and Education Fee (State)	\$4
Temporary, Publicly Attended Activities, Application Fee (Municipal Code § 9.36.040)	\$34
Public Art (Total Building Valuation \$250,000 or more) (Municipal Code Chapter 2.58)	2% of TBV or 1% in lieu to City
Notice of Intent to Circulate Initiative Petition (Elections Code § 9103(b))	\$200.00
Bandstand Rental Fee	\$246 / 4 hrs or \$738 all day / deposit \$1,500
Outdoor Dining Rental Fees	
Parking Spaces	\$3,400 annually for each space or partial space
Sidewalks and non-parking spaces	\$18.00 per square foot annually
Outdoor Dining Maintenance Deposit	
Sidewalks and non-parking spaces	\$500
1-2 parking spaces	\$1,000
3-5 parking spaces	\$1,500
Notary Service Fees (State Code)	
Acknowledgment or proof of a deed, or other instrument, to include the seal and writing of the certificate	\$15 / signature
Administering an oath or affirmation to one person and executing the jurat, including the seal	\$15 / signature
Credit Card Transaction Fee	3%
Electric Vehicle Charging Fee	\$0.50 / hour
Cannabis Annual License Fee	\$2,827
Retail Cannabis Application Fee	\$1,843

2023/24 Proposed Fee Schedule
\$593
\$71
0.15 / page
\$0
\$0
\$0.25 / page
\$0.10 / page
Cost + \$57.21 1st Hour (Minimum) + \$28.60 / hour
\$54
\$272
\$44
\$44
\$184
\$689
\$20
\$44
\$0 (Set to -0- by Council in 2011)
\$35 + 10% each month late
\$25
\$4
\$34
2% of TBV or 1% in lieu to City
\$200.00
\$246 / 4 hrs or \$738 all day / deposit \$1,500
\$3,400 annually for each space or partial space
\$18.00 per square foot annually
\$500
\$1,000
\$1,500
\$15 / signature
\$15 / signature
3%
\$0.50 / hour
\$2,827
\$1,843

Description	2023/24 Adopted Fee Schedule	2023/24 Proposed Fee Schedule
POLICE DEPARTMENT FEES		
Special Event Permit	\$68	\$68
Amplified Sound Permit (Municipal Code 9.12.040)	\$32	\$32
DUI Cost Recovery Fee (Res. 3533)	Not to exceed \$12,000	Not to exceed \$12,000
Copies of reports: Crime Reports, Special Reports, etc. (Regardless of number of pages)	\$0.25 / page	\$0.25 / page
Copies of: Citations, Code sections, Ordinances, etc.	\$0.25 / page	\$0.25 / page
Bicycle Licenses (New)	\$0	\$0
Bicycle Licenses (Renewal)	\$0	\$0
Citation Sign-Offs	\$0	\$0
Photographs	\$20 + administration fees	\$20 + administration fees
VIN verifications	\$18	\$18
Video Tapes, Flash Drive, CD/DVD Production	Cost + \$57.21 1st Hour (Minimum) + \$28.60 / hour	Cost + \$57.21 1st Hour (Minimum) + \$28.60 / hour
Firearm Dealer License - City Application	100	100
Local Firearm dealers (set by state)		
New application	set by state	set by state
Renewal	set by state	set by state
Second Dealers License (set by state)		
Application	set by state	set by state
Renewal	set by state	set by state
Taxi Fee per application	set by state	set by state
Tobacco retail license	\$289	\$289
Civil Subpoena (per case) (set by state)	set by state	set by state
Parking Permits (separate action by the Council)		
Neighborhoods per year (Resolution No. 3733)	\$25	\$25
Village Preferential Permit (Resolution No. 3733)	\$50 per year	\$50 per year
Village Preferential Permit - Hotels/Motels	\$50 per year	\$365 per year
Village Employer/Employee Permit (Resolution No. 3733)	\$50 per year	\$50 per year
Morning Village Parking Permit (Resolution No. 3715)	\$50 per year	\$55 per year
Carrying a Concealed Weapon (CCW) Permit - City Application	115	115
Concealed Weapon Permits (set by state)		
Application		
Standard	set by state	set by state
Judicial	set by state	set by state
Employment	set by state	set by state
Renewal		
Standard	set by state	set by state
Judicial	set by state	set by state
Employment	set by state	set by state
Firearm Surrender Fees (set by state law)		
1-5 guns	set by state	set by state
6+guns	set by state	set by state
Vehicle Storage per day	\$30	\$30
Administrative fee to release Impounded / Stored Vehicle	\$145	\$145
Surf School Permit Fee	\$594	\$594
Animal Services Fees		
See Exhibit B "Animal Services Fees"		

Description	2023/24 Adopted Fee Schedule
PUBLIC WORKS DEPARTMENT FEES	
Encroachment Permits	
Revocable Encroachment Permit - Outdoor Dining	\$230
Non-Construction Items (includes materials storage within right-of-way road and sidewalk closures)	\$75
Village Sidewalk Encroachment Permit	\$44
Village Parking Space Encroachment Permit (annually)	\$3,400
Construction Items	
Level A	\$227
Level B	\$503
Level C	\$1,004
Level D	\$1,633
Level E	\$2,263
Residential Blue Curb Application Fee	\$237
Residential Blue Curb Annual Fee	\$60
Blanket Permits (repair and maintenance of existing facilities)	\$2,513
Private Improvement Permits/Encroachment Agreement	
Applications for Minor Permits	\$251
Applications for Major Permits	\$629
New Memorial Bench	\$1,137
Replacement Memorial Bench	\$554
Memorial Plaque	\$854
Replacement Plaque	\$277
Memorial Plaque (tree)	\$545 + Cost of Tree
Memorial Picnic Table	\$1,822
Seasonal Boat Storage Permits	
Seasonal Permit	\$400 per month
Short Term Permit	\$15 per day
Stormwater Development Review Fee	
Stormwater Plan Review Fee	\$124
Large Project Plan Review Deposit	
Tier 2	\$3,771
Tier 3 & 4	\$5,028
Research Fee - 1/2 hour minimum charge	Cost
Information Technology Fee (Resolution No. 3796 adopted 11/12/09)	5% of Permit Fee
Final Map	Cost; \$3,000 min. deposit

2023/24 Proposed Fee Schedule
\$230
\$75
\$44
\$3,400
\$227
\$503
\$1,004
\$1,633
\$2,263
\$237
\$60
\$2,513
\$251
\$629
\$1,137
\$554
\$854
\$277
\$545 + Cost of Tree
\$1,822
\$400 per month
\$15 per day
\$124
\$3,771
\$5,028
Cost
5% of Permit Fee
Cost; \$3,000 min. deposit

Description	2023/24 Adopted Fee Schedule
Plan Amendments	
General Plan Amendment	Cost; \$5,000 min. deposit
Local Coastal Plan Amendment	Cost; \$5,000 min. deposit
Rezone	Cost; \$5,000 min. deposit
Planned Development Rezone	Cost; \$3,500 min. deposit
Other Discretionary Permits	
Variance	\$1,887
PC review of minor modifications	\$1,696
Coastal Development Permit	\$943
Coastal Permit Exclusion	\$106
Mobile home Park Change of Use or Closure	\$5,000 Deposit
Development Agreement	\$10,000 min. deposit
Developer agreement annual review	\$2,500 deposit
Specific Plan	Cost; \$5,000 min. deposit
Permit Time Extension -Staff Review	\$629
Permit Time Extension - PC Review	\$1,887
Permit Amendment (any permit)	50% of original cost
Annexation	Costs+ overhead / \$3,000 min. deposit
Minor Modification	\$1,887
Environmental Review	
Negative Declaration (and Mitigated ND)	Cost; \$2,000 min deposit
EIR Processing	Cost; + 21% of consultant; \$10,000 min deposit
Mitigation/Condition Monitoring Program	Cost + 21%
NEPA Compliance	Cost + 21%
Other Permits/Fees	
Conceptual Review Fee- PC	\$1,887
Conceptual Review Fee- PC and CC	\$2,828
Technical Study Preparation and Review	Cost + 21%
NOTE: Third party review costs to be required as necessary	Cost + 21%
Code Compliance	Double Application Fees
Code Compliance confiscated property recovery fee	\$298
Research Fee - 1/2 hour minimum charge	Cost
Pre-Application Review	\$264
Building Plan Check & Final Inspection	20% of Building Permit Fee
Major Development Project Fee	Cost; \$5,000 min. deposit
Historical significance determination	\$4,250 deposit
Inclusionary Housing	
Inclusionary Housing - Unit Sale	\$629
Inclusionary Housing - Unit Refinance	\$252
Single Family Residence	\$2.50 per square foot
Other Fees and Assessments	
General Plan Maintenance Fee	Total Building Valuation X 0.5%
Information Technology Fee (Resolution No. 3786 adopted 11/12/09)	5% of Permit Fee
Green Building Educational Resource Fund Fee (Municipal Code 17.10.080)	Fee equals .0025 times the overall building permit valuation of the project.
Affordable Housing In-Lieu Fees	
For Sale Housing Developments of two to six units (Municipal Code Chapter 18.02) :	
All Units	\$25 per sq. ft.
For Sale Housing Developments of Seven or more units	
#Units	#Units Built
7	1
8-13	1
14	2
15-20	2
21	3
22-27	3
28	4
Rental Multi-Family	\$6 per sq. ft.
Affordable Housing Impact Fees	
For Sale Housing Developments of Six or Less Units	\$25 per square foot
Rental Multi-Family	\$6 per square foot
Additional to Housing Units of 50% or more (charged to additional square footage only)	\$2.50 per square foot

2023/24 Proposed Fee Schedule
Cost; \$5,000 min. deposit
Cost; \$5,000 min. deposit
Cost; \$5,000 min. deposit
Cost; \$3,500 min. deposit
\$1,887
\$1,696
\$943
\$106
\$5,000 Deposit
\$10,000 min. deposit
\$2,500 deposit
Cost; \$5,000 min. deposit
\$629
\$1,887
50% of original cost
Costs+ overhead / \$3,000 min. deposit
\$1,887
Cost; \$2,000 min deposit
Cost; + 21% of consultant; \$10,000 min deposit
Cost + 21%
Cost + 21%
\$1,887
\$2,828
Cost + 21%
Cost + 21%
Double Application Fees
\$298
Cost
\$264
20% of Building Permit Fee
Cost; \$5,000 min. deposit
\$4,250 deposit
\$629
\$252
\$2.50 per square foot
Total Building Valuation X 0.5%
5% of Permit Fee
Fee equals .0025 times the overall building permit valuation of the project.
\$25 per sq. ft.
Total # units minus 7 @ \$25 per avg. sq. ft. per unit
\$0
Total # units minus 14 @ \$25 per avg. sq. ft. per unit
\$0
Total # units minus 21 @ \$25 per avg. sq. ft. per unit
\$0
\$6 per sq. ft.
\$25 per square foot
\$6 per square foot
\$2.50 per square foot

NOTES:

- All Fees are non-refundable.
- Deposit accounts are billed on a time and material basis. Additional deposits may be necessary depending on the complexity of the project. Any unused monies in a deposit account will be refunded following case closure.
- The Community Development Director may reduce the total fee/deposit requirements for applications which are unlikely to require the full deposit amounts established herein.
- Applications which include a fee and a deposit payment will be processed with a single deposit account.
- Outside agency fees, including but not limited to County recordation fees, State Fish and Wildlife fees, etc. are charged at cost.
- The Community Development Director may establish a reasonable fee or deposit amount for permit

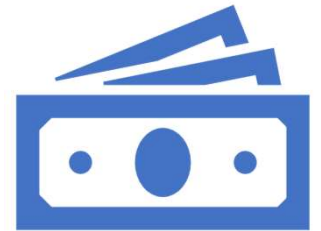
Description	2023/24 Adopted Fee Schedule
BUILDING FEES	
The cost of a "combination building permit" shall be 1.5 times the amounts shown in Table 1-A. A "combination building permit" is defined as a permit for a scope of construction work regulated by two or more of the model codes. The model codes are the building code, the plumbing code, the mechanical code and the electrical code.	
The cost of a "building permit" shall be the amounts shown in Table 1-A. A "building permit" is defined as a permit for a scope of construction work regulated solely by a single model code. The model codes are the building code, the plumbing code, the mechanical code and the electrical code.	
TABLE 1-A	
Total Valuation	FEES
\$1.00 to \$500.00	\$29.55
\$501.00 to \$2,000.00	\$29.55 for the first \$500.00 plus \$3.83 for each additional \$100.00 or fraction thereof.
\$2,001.00 to \$25,000.00	\$87.00 for the first \$2,000.00 plus \$17.59 for each additional \$1000.00 or fraction thereof.
\$25,001.00 to \$50,000.00	\$491.57 for the first \$25,000.00 plus \$12.69 for each additional \$1,000.00 or fraction thereof.
\$50,001.00 to \$100,000.00	\$808.82 for the first \$50,000.00 plus \$8.81 for each additional \$1,000.00 or fraction thereof.
\$100,001.00 to \$500,000.00	\$1,249.32 for the first \$100,000.00 plus \$7.05 for each additional \$1,000.00 or fraction thereof.
\$500,001.00 to \$1,000,000.00	\$4,069.32 for the first \$500,000.00 plus \$5.97 for each additional \$1,000.00 or fraction thereof.
\$1,000,001.00 and up	\$7,054.32 for the first \$1,000,000.00 plus \$3.23 for each additional \$1,000.00 or fraction thereof.
Building Plan Check Fee	65% of Building Permit Fee
Reinspection Fee	\$0
Resubmitted Plan Check Fee	\$122.30 / hr.
Building Permit Extension Fee	\$0
Building Permit Reinstatement Fee	50% of the original, singular building permit fee or combo building permit fee, whichever is applicable to the permit being reinstated
Stop Work Order Fee	2x the singular building permit fee
Greywater System Permit	\$0
Electric Vehicle Charging Permits (* Note: These fees were added to the fee schedule for FY2011-12, but will be waived per the Green Energy Incentive Program)	
a. Level I (120 volts)	\$0
b. Level II (208-240 volts)	\$0
c. Level III (480 volts)	\$0
Solar P.V. System	\$0
Solar P.V. System (Commercial Sale/Distribution)	\$0
Solar Hot Water Heater	\$0
Research Fee - 1/2 hour minimum charge	Cost
Information Technology Fee (Resolution No. 3786 adopted 11/12/09)	5% of Permit Fee
Temporary Trailer/Mobile Home Occupancy Permit	\$0
Structural Review of Engineered Plans	cost + 21%
Outside Consultant Plan Review	cost + 21%

2023/24 Proposed Fee Schedule
FEES
\$29.55
\$29.55 for the first \$500.00 plus \$3.83 for each additional \$100.00 or fraction thereof.
\$87.00 for the first \$2,000.00 plus \$17.59 for each additional \$1000.00 or fraction thereof.
\$491.57 for the first \$25,000.00 plus \$12.69 for each additional \$1,000.00 or fraction thereof.
\$808.82 for the first \$50,000.00 plus \$8.81 for each additional \$1,000.00 or fraction thereof.
\$1,249.32 for the first \$100,000.00 plus \$7.05 for each additional \$1,000.00 or fraction thereof.
\$4,069.32 for the first \$500,000.00 plus \$5.97 for each additional \$1,000.00 or fraction thereof.
\$7,054.32 for the first \$1,000,000.00 plus \$3.23 for each additional \$1,000.00 or fraction thereof.
65% of Building Permit Fee
\$0
\$122.30 / hr.
\$0
50% of the original, singular building permit fee or combo building permit fee, whichever is applicable to the permit being reinstated
2x the singular building permit fee
\$0
\$0
\$0
\$0
\$0
\$0
Cost
5% of Permit Fee
\$0
cost + 21%
cost + 21%

Description	2023/24 Adopted Fee Schedule
Grading Plan Review Fees	
50 cubic yard or less	\$ -
51 to 100 cubic yard	\$ -
101 to 1,000 cubic yards	\$ -
1,001 to 10,000 cubic yards	\$ -
10,001 to 100,000 cubic yards	\$60.36 for first 10,000 plus \$30.81 for each additional 10,000 cubic yards
100,001 to 200,000 cubic yards	\$337.69 for first 100,000 plus \$16.65 for each additional 10,000 cubic yards
200,001 cubic yards or more	\$487.57 for first 200,000 plus \$9.12 for each additional 10,000 cubic yards
Grading Permit Fees	
50 cubic yard or less	\$ -
51 to 100 cubic yard	\$ -
101 to 1,000 cubic yards	\$46.51 for first 100 plus \$22.01 for each additional 100 cubic yards
1,001 to 10,000 cubic yards	\$244.60 for first 1,000 plus \$18.23 for each additional 1,000 cubic yards
10,001 to 100,000 cubic yards	\$408.67 for first 10,000 plus \$82.97 for each additional 10,000 cubic yards
100,001 to 200,000 cubic yards	\$1,155.40 for first 100,000 plus \$45.88 for each additional 10,000 cubic yards

2023/24 Proposed Fee Schedule
\$ -
\$ -
\$ -
\$ -
\$60.36 for first 10,000 plus \$30.81 for each additional 10,000 cubic yards
\$337.69 for first 100,000 plus \$16.65 for each additional 10,000 cubic yards
\$487.57 for first 200,000 plus \$9.12 for each additional 10,000 cubic yards
\$ -
\$ -
\$46.51 for first 100 plus \$22.01 for each additional 100 cubic yards
\$244.60 for first 1,000 plus \$18.23 for each additional 1,000 cubic yards
\$408.67 for first 10,000 plus \$82.97 for each additional 10,000 cubic yards
\$1,155.40 for first 100,000 plus \$45.88 for each additional 10,000 cubic yards

Fiscal Year 2023-24 Amended Fee Schedule



October 26, 2023

Background

- Annual review of the fee schedule as part of the budget process
 - FY 2023-24 Fee Schedule adopted June 22, 2023
- At the time of adoption not all information regarding parking rates was available
 - Received final certification from the Coastal Commission following adoption of fee schedule
- An amendment to the fee schedule is necessary to implement remaining Temporary Village Parking Committee recommendations



Proposed Fee Amendments

- Parking Permit Program:
- Transferable permits – Hotels / Motels
 - Increase from \$50/year to \$365/year
- Surf & Coffee Permits
 - Increase from \$50/year to \$55/year
 - Increase number of permits from 75 to 100

Recommended Action

- Adopt the proposed resolution amending the fee schedule for Fiscal Year 2023-24

Capitola City Council

Agenda Report

Meeting: October 26, 2023

From: City Manager's Department

Subject: Amendments to Title 2: Administration and Personnel



Recommended Action: Introduce, by title only, waiving further reading of the text, an ordinance of the City of Capitola amending Chapters 2.04 and 2.08 of the Capitola Municipal Code.

Background: The Capitola Municipal Code is comprised of eighteen titles, and each title contains chapters. Title 2: Administration and Personnel is composed of sixteen chapters focused on the governance of the City administration. Within Title 2, language can be found concerning the powers and duties of the City Council and City Manager.

Administrative Policy I-15: Agenda Preparation was originally adopted in 2003 and was most recently revised in 2016. This policy establishes a uniform procedure for the preparation of City Council agendas. The policy includes language outlining the City Council agenda format, and directions concerning how City staff may submit agenda items for approval. This policy falls within the City Manager's jurisdiction.

The regular review of municipal codes and administrative policies is recommended as a best practice. Regular reviews can identify outdated or ineffective provisions and allow the municipal code to remain up-to-date. Staff has identified sections of Title 2 that require revision, and recommends consolidating key language from Administrative Policy I-15 into the Municipal Code to clarify procedure in a central and easily accessible location.

Discussion: Staff conducted a review of the entirety of Title 2: Administration and Personnel. Below is a summary of edits recommended by staff.

- **Chapter 2.04 Section 4: City Council:** Staff updated language throughout this Chapter to reflect the change from Mayor Pro Tempore to Vice Mayor, updated adjournment time to reflect current practice, and added a new section to outline ways that the public can participate during meetings (consistent with current practice). Staff removed language regarding the appointment of Standby City Council Members; this practice hasn't been followed and may not be consistent with the City's goals of transparency and community involvement.
- **Chapter 2.04 Section 7: City Attorney:** Updated to reflect current powers and duties.
- **Chapter 2.04 Section 9: Public Works:** Updated language regarding the appointment of the Public Works Director. This section has not been updated since 1974.
- **Chapter 2.04 Section 11: Director of Finance:** Updated to remove Redevelopment Agency (RDA) from annual financial reports, as the RDA was dissolved in 2022.
- **Chapter 2.08: City Manager:** Updated bond requirements to align with Chapter 2.04.080, removed dissolved commission names from 2.08.230.

The recommended changes to the Municipal Code will replace Administrative Policy I-15: Agenda Preparation. Following adoption of the proposed ordinance, Administrative Policy I-15: Agenda Preparation will be administratively repealed.

Fiscal Impact: There is no fiscal impact associated with this ordinance.

Attachments:

1. Ordinance
2. Title 2: Administration and Personnel
3. Administrative Policy I-15: Agenda Preparation

Report Prepared By: Julia Gautho, City Clerk

Reviewed By: Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager

ORDINANCE NO. XXXX**AN ORDINANCE OF THE CITY OF CAPITOLA AMENDING CHAPTER 2.04, ADMINISTRATION, AND CHAPTER 2.08, CITY MANAGER, OF THE CITY OF CAPITOLA MUNICIPAL CODE REGARDING ADMINISTRATION AND PERSONNEL**

WHEREAS, regular review of municipal codes is recommended as a best practice and can identify outdated or ineffective provisions; and

WHEREAS, staff conducted a review of Title 2, Administration and Personnel, and found areas they recommended to update; and

WHEREAS, the City of Capitola has an interest in ensuring that the municipal code remains up-to-date and understandable for members of the public, staff, and the City Council; and

WHEREAS, the City Council desires to implement changes to the language in Chapters 2.04 and 2.08.

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

Section 1. The above findings are adopted and incorporated herein.

Section 2. Title 2: Administration and Personnel is amended as shown in Exhibit A.

Section 3. Effective Date.

This Ordinance shall be in full force and effect thirty (30) days from its passage and adoption.

Section 4. Severability.

The City Council hereby declares every section, paragraph, sentence, cause, and phrase of this ordinance is severable. If any section, paragraph, sentence, clause, or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses, or phrases.

Section 5. Certification.

The City Clerk shall cause this ordinance to be posted and/or published in the manner required by law.

This Ordinance was introduced at the meeting of the City Council on the 26th day of October, 2023, and was adopted at a regular meeting of the City Council on the 9th day of November, 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Margaux Keiser, Mayor

Attest: _____
Julia Gautho, City Clerk

Approved as to form:

Samantha W. Zutler, City Attorney

Exhibit A

Title 2

ADMINISTRATION AND PERSONNEL

Chapters:

- 2.04 Administration (Amended)**
- 2.08 City Manager (Amended)**
- 2.12 Planning Commission**
- 2.16 Planning Department**
- 2.18 Mobile Home Park Rent Stabilization**
- 2.20 Health Officer**
- 2.24 Conflict of Interest**
- 2.28 Public Museum**
- 2.32 Peace Officer Training**
- 2.40 Unclaimed Property**
- 2.44 Personnel System**
- 2.48 Retirement System**
- 2.52 Appeals to City Council**
- 2.56 Art and Cultural Commission**
- 2.58 Funding The Public Art Program**
- 2.60 Military Equipment Use**

Chapter 2.04

ADMINISTRATION

Sections:

I. Organization

- 2.04.010 Categories.
- 2.04.015 Term limits for elected officials.
- 2.04.020 Powers and duties of department heads.

II. City Boards and Commissions Policies

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- 2.04.060 City personnel use.
- 2.04.070 *Repealed.*

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- 2.04.080 Bonds.
- 2.04.090 *Repealed.*
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IV. City Council

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- 2.04.260 Adjournment – Time and date continued.
- 2.04.270 Adjournment – When in order.
- 2.04.275 City council member salary.
- 2.04.280 Administrative procedures.
- 2.04.285 *Repealed.*

V. City Manager

- 2.04.290 Office established.
- 2.04.300 Powers and duties.

VI. City Clerk

- 2.04.310 Office created.

2.04.320 Powers and duties.

VII. City Attorney

2.04.330 Office created.

2.04.340 Powers and duties.

VIII. City Treasurer

2.04.350 Office created.

2.04.360 Powers and duties.

2.04.365 Appointment.

IX. Department of Public Works

2.04.370 Created.

2.04.380 Director – Appointment.

2.04.390 Director – Powers and duties.

X. Department of Police

2.04.450 Created.

2.04.460 Chief – Appointment.

XI. Director of Finance

2.04.600 Powers and duties.

I. Organization

2.04.010 Categories.

The governmental forces of the city shall be organized into the following categories:

A. Elective. The elective offices of the city of Capitola are the city council members.

B. The city treasurer and such city boards and commissions as are established by city council ordinance or resolution. Such boards and commissions shall have the powers and duties expressly set forth in the enabling ordinance or resolution and shall also advise the city council on matters related to the explicit function of the board or commission.

C. City Manager and City Departments. Capitola shall be administered as a city manager form of government. It shall have such administrative departments as are set forth in this chapter and as are hereafter created by ordinance or resolution. Unless a power or duty is explicitly vested in an identified city employee, all city employees are expected to function in accordance with the instruction of their department heads, and department heads are expected to function in accordance with the instructions they receive from the city manager. (Ord. 1025 § 1 (part), 2018; Ord. 830 § 1, 2001; Ord. 375 § 1, 1974)

2.04.015 Term limits for elected officials.

City council members shall serve a maximum of two elected terms consecutively. Upon completion of a second consecutive elected term, the term-limited city council member shall be eligible to seek reelection to the city council for a term commencing no earlier than two years after the second consecutive term has been completed. Nothing herein shall be construed to limit the city council's discretion to appoint an individual to fill a city council seat which has been vacated due to resignation, death, disqualification or other cause. (Ord. 1025 § 1 (part), 2018; Ord. 844 § 1, 2002)

2.04.020 Powers and duties of department heads.

The heads of the various departments established by this chapter shall have the following general powers, duties and responsibilities:

- A. To organize the department into the divisions established by this chapter in such a manner as to efficiently perform the functional responsibilities allocated. For this purpose, the department head may create such sections and subunits within such division as deemed necessary;
- B. To make recommendations regarding recruiting, disciplining and discharging of departmental personnel in accordance with any personnel rules and regulations of the city;
- C. To efficiently utilize available manpower;
- D. To keep correct attendance records on each employee for payroll purposes, and to submit such other information as required for the proper maintenance of individual personnel records, including leaves of absence, job efficiency and personal conduct;
- E. To administer the departmental budget and permit no purchase requisitions to be issued, or other expense incurred, unless an appropriation therefor has been duly authorized;
- F. Department heads shall attend meetings of the council when required;
- G. Department heads shall attend meetings of their respective boards and commissions. They shall serve as secretary and keep records of such commissions when so requested;
- H. Department heads shall carry on an active public relations program for their respective services, including the publication of educational reports and brochures, the promotion of authorized objectives, and the making of public addresses when the occasion so requires;
- I. Department heads shall recommend and administer internal rules and regulations for the proper conduct of personnel and the efficient handling of the department's duties and functions;
- J. They shall discharge such other duties as may be assigned by the city manager or required by the ordinances, resolutions or official orders of the city council. (Ord. 830 § 1, 2001; Ord. 375 (part), 1974)

II. City Boards and Commissions Policies

2.04.030 Authority to establish.

The council may establish appropriate boards, commissions and committees by ordinance, resolution or minute order. (Ord. 830 § 1, 2001)

2.04.040 City council referrals.

The city council may refer an item to a board, commission, or advisory body by motion, passed by a simple majority, at a noticed public meeting. (Ord. 1038 § 3, 2020)

2.04.060 City personnel use.

The various boards and commissions may utilize the services of the appropriate city departmental personnel in carrying out their respective functions subject to the administrative control of the city manager. (Ord. 375 (part), 1974)

2.04.070 Policy adoption.

Repealed by Ord. 1038. (Ord. 375 (part), 1974)

III. Bonds

2.04.080 Bonds.

The bonding requirements of Government Code Section 36518 shall be fulfilled by a government crime insurance policy. (Ord. 1038 § 1 (part), 2020; Ord. 830 § 1, 2001; Ord. 375 (part), 1974)

2.04.090 Blanket bond.

Repealed by Ord. 1038. (Ord. 375 (part), 1974)

2.04.100 Terms.

Repealed by Ord. 1038. (Ord. 375 (part), 1974)

IV. City Council

2.04.110 Regular meetings.

A. Time. Regular meetings of the city council generally shall be held on the second and fourth Thursday of each month. Any other regular meetings may be in accordance with Government Code Sections 54954 and 54955. Each year, the city council will adopt the regular meeting calendar dates and times by resolution.

B. Place. All regular meetings of the council shall be convened in the council chambers in the City Hall, 420 Capitola Avenue, Capitola, California. If, by reason of a natural disaster, emergency, or other event that makes it unsafe to meet in the place designated, the meetings may be held for the duration of the event at such place as is designated by the presiding officer of the council.

C. Public. Meetings of the council shall be open as required by the Brown Act (Government Code Sections 54950, et seq.), or other applicable law. (Ord. 1038 § 1 (part), 2020; Ord. 920 § 1, 2007; Ord. 830 § 1, 2001; Ord. 456, 1979; Ord. 375 (part), 1974)

2.04.120 Special meetings.

Special meetings of the city council shall be held under the conditions and in the manner set forth in the Brown Act. (Ord. 830 § 1, 2001; Ord. 375 (part), 1974)

2.04.130 Council chambers.

The room designated as the city council chambers at 420 Capitola Avenue in the city, is fixed as the place of regular and special meetings of the city council, and such council chambers and the adjacent offices and rooms used and occupied by the city clerk and administrative officers of the city, shall henceforth be known and designated as the city hall of the city. (Ord. 375 (part), 1974)

2.04.140 Agenda.

The following have authority to place a matter on the council agenda:

A. The mayor or any member of the city council with the condition that the proposed agenda item be requested at an open city council meeting;

B. The city manager;

C. The city council may, after the seventy-two-hour agenda-posting deadline has expired, add items to the agenda in the manner provided in Government Code Section 54954.2(b);

D. Repealed by Ord. 1038.

E. The city treasurer, city clerk, or city attorney, provided the subject is reasonably related to their powers and duties and concerns a subject upon which the council has authority to act.

Other persons must direct their agenda requests to the city council (at council meetings), the mayor, or the city manager. Agendas shall otherwise be prepared under the direction of the city manager and shall be posted, noticed and distributed in accordance with the Brown Act. For purposes of Government Code Section 54954.2(a), agendas shall be posted in the entrance area to the city council chambers. (Ord. 1038 § 1 (part), 2020; Ord. 999 § 1, 2015; Ord. 919 § 1, 2007; Ord. 830 § 1, 2001; Ord. 375 (part), 1974)

2.04.150 Selection of the mayor (presiding officer).

A. Each year the city council shall select a mayor and vice mayor ~~pro-tempore~~. During years with a general election, such selection shall be made at the meeting at which the declaration of the election results for a general municipal election is made. During years without a general election, such selection shall be made approximately one year after the prior selection.

B. The mayor, or ~~mayor pro tempore~~ vice mayor, may be replaced if at least three council members vote for the removal of the mayor, or ~~mayor pro tempore~~ vice mayor, at a noticed city council meeting. (Ord. 1038 § 1 (part), 2020; Ord. 768, 1994; Ord. 375 (part), 1974)

2.04.160 Vice Mayor pro tempore.

In case of the temporary absence or inability of the mayor to act as presiding officer the vice mayor pro tempore shall preside. In case of the absence or disability of both the mayor and vice mayor pro tempore the council shall elect one of its members to act as vice mayor pro tempore. Upon the arrival of the mayor, the vice mayor pro tempore shall relinquish the chair upon the conclusion of the business immediately before the council. (Ord. 375 (part), 1974)

2.04.165 Appointment of standby city council members. (Repealed)

~~Government Code Sections 8635 and following provide that the city council shall have the authority to appoint up to three standby city council members per council position. Such standby members would serve as city council persons in the event that a council member is "unavailable" in an "emergency" as those words are defined in the California Emergency Services Act. Each council member may nominate from one to three persons to serve as his or her standby members. In making that nomination, the council member shall follow the criteria of Government Code Section 8639 which reads as follows:~~

~~Consideration shall be given to places of residence and work, so that for each office for which standby officers are appointed there shall be the greatest probability of survivorship. Standby officers may be residents or officers of a political subdivision other than that to which they are appointed as standby officers.~~

~~The duties of such standby council members shall be as set forth in Government Code Section 8641. To become effective the nomination must be approved by the city council, and the nominee must take the oath of office. Terms of office and method of removal shall be as provided in Government Code Section 8640. (Ord. 782, 1995) Repealed.~~

2.04.170 Conduct of meeting.

The mayor, or in his or her absence, the vice mayor pro tempore, shall take the chair at precisely the hour appointed for the meeting and shall immediately call the council to order. The mayor or mayor pro tempore vice mayor shall preserve strict decorum at all regular and special meetings of the council. He or she shall state every question coming before the council, call for the vote, announce the decision of the council on all subjects and decide all questions of order, subject, however, to an appeal to the council, in which a majority vote of the council shall govern and conclusively determine such question of order. (Ord. 375 (part), 1974)

2.04.180 Quorum/action.

A majority of the entire membership of the council shall constitute a quorum to do business. A majority of that quorum may act on matters before the council, unless a city ordinance or state law requires a greater number. When less than the full council is present and there is a tie vote, the chair, unless overridden by a majority of present council members, may continue the matter to another meeting. When there is a tie council vote on an appeal from a board or commission action, unless the matter is continued, the appeal will be deemed denied and the board or commission action becomes final. (Ord. 830 § 1, 2001; Ord. 375 (part), 1974)

2.04.190 Order of business.

The chair, ~~subject to the concurrence of the council~~, may vary the sequence of business from that shown on the posted agenda. (Ord. 830 § 1, 2001; Ord. 375 (part), 1974)

2.04.200 Reading of minutes.

Unless the reading of the minutes of a council meeting is requested by a member of the council, such minutes may be approved without reading if the clerk has previously furnished each member with a copy thereof. (Ord. 375 (part), 1974)

2.04.210 Rules of debate.

A. Presiding Officer May Debate. The mayor or mayor pro tempore vice mayor may debate from the chair, subject only to such limitations of debate as are imposed upon all members by the rules set forth in this section.

B. Getting the Floor. Every member desiring to speak shall address the chair, and upon recognition by the presiding officer, shall confine himself or herself to the question under debate, avoiding all personalities and indecorous language.

C. Interruptions. A member, once recognized, shall not be interrupted when speaking unless it is to call him or her to order. If a member, while speaking, is called to order, he or she shall cease speaking until the question of order is determined and, if in order, he or she shall be permitted to proceed.

D. Privilege of Closing Debate. The councilmember moving the adoption of an ordinance or resolution shall have the privilege of closing the debate.

E. Remarks of Councilmember. A councilmember may request, through the presiding officer, the privilege of having an abstract of his or her statement on any subject under consideration by the council entered in the minutes. If the council consents thereto, such statement shall be entered; provided, however, any council member without council consent shall have the right to have the reasons for his or her dissent from, or protest against, any action of the council entering in the minutes.

F. Synopsis of Debate. The city clerk may be directed by the presiding officer, with consent of the council, to enter in the minutes a synopsis of the discussion on any question coming regularly before the council.

G. Rules of Order. Except as otherwise provided in this chapter, the rules of order that govern the conduct of the meetings of the city council and other city advisory bodies shall be those rules of order designated by city council resolution. (Ord. 914 § 1, 2007; Ord. 375 (part), 1974)

2.04.220 Addressing council – Permission required.

Any person desiring to address the council at a meeting shall first secure the permission of the presiding officer to do so; provided, however, that under the heading oral communications, after being recognized by the presiding officer, interested parties or their authorized representatives may address the council on matters concerning their interests. (Ord. 1038 § 1 (part), 2020; Ord. 375 (part), 1974)

2.04.230 Addressing council – After motion made.

After a motion is duly made and seconded by the council, no person other than a member of the council shall address the council without first securing the permission of a majority of the council to do so. This address, upon the subject to be voted upon, may not exceed three minutes duration and no person may speak more than once at this time. (Ord. 375 (part), 1974)

2.04.240 Addressing council – Manner.

Each person addressing the council shall be requested to give his or her name and address in an audible tone of voice for the records. All remarks shall be addressed to the council as a body and not to any member thereof. No person, other than the council and person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the council, without permission of the presiding officer. No question shall be asked a councilmember or staff member, except through the presiding officer. (Ord. 830 § 1, 2001; Ord. 375 (part), 1974)

2.04.250 Voting.

No member of the council shall be allowed to explain his or her vote or discuss the question while the roll is being called, and no member shall be allowed to change his or her vote after the vote is announced by the presiding officer. (Ord. 375 (part), 1974)

2.04.260 Adjournment – Time and date continued.

The council may adjourn any regular, adjourned or special meeting to a time and place specified in the order for adjournment. Whenever an order for adjournment fails to state the hour at which the adjourned meeting is to be held, it shall be at seven-six p.m. on the day specified in the order for adjournment. All matters may be considered and passed upon at such adjourned meetings as could have been considered and passed upon at the meetings from which such adjournments were taken and shall be deemed to be a continuation of the meeting from which the adjournment was taken. (Ord. 830 § 1, 2001; Ord. 375 (part), 1974)

2.04.270 Adjournment – When in order.

A motion to adjourn, except during roll call, shall always be in order and decided without debate. When a motion is made and seconded to adjourn, it shall be in order for the presiding officer before putting the question, to permit any member to state any fact to the council relating to the condition of the business of the council which would seem to render it improper to adjourn at that time. Such statement shall not be debatable and shall not be of more than two minutes duration. (Ord. 375 (part), 1975)

2.04.275 City council member salary.

Pursuant to California Government Code Section 36516, commencing December 2022 the salary for city council members shall be six hundred and sixty dollars per month and may be adjusted in accordance with state law. Such salary shall be payable in the same manner as salaries are paid to other officers and employees of the city. (Ord. 1054 § 2, 2022; Ord. 1032 § 2, 2019; Ord. 901 § 2, 2006)

2.04.280 Administrative procedures.

A. The administrative procedures of the city shall be established through formal documents approved by the city manager.

B. In the absence of established administrative procedures, the appropriate department head may establish an interim procedure pending the formal action of the city manager on the subject provided that the procedure has been submitted to the city manager's office for later review.

C. In cases of conflict between such administrative procedure and: state law, federal law, council resolution, council ordinance or council policy adopted pursuant to Section 2.04.070, the latter shall supersede the administrative procedure. (Ord. 830 § 1, 2001; Ord. 375 (part), 1974)

2.04.285 Redevelopment agency.

Repealed by Ord. 1038. (Ord. 505 §§ 1 – 4, 1981)

2.04.290 Public Participation at Meetings.

The chair of the meeting may establish a uniform time limit for public comments.

A. Comments on Non-Agendized Items: members of the public may address the City Council on any consent item, or on any topic within the subject matter jurisdiction of the City Council that is not on the general government or public hearing section of the agenda, during the oral communications portion of the agenda. Individuals may not speak more than once during oral communications. All speakers must address their comments to the City Council. the entire legislative body and will not be permitted to engage in dialogue.

B. Comments on ~~On~~-Agendized Items: members of the public may address the city council on any general government or public hearing item following staff's presentation and council questions during the public comment period on that particular item. Individuals may not speak more than once during the public comment period. All speakers must address their comments to the City Council. the entire legislative body and will not be permitted to engage in dialogue.

A.C. Removing an Item from Consent: Any Council Member may pull an item from the consent calendar by motion. Items pulled from the consent calendar will be considered following general government items.

V. City Manager

2.04.290 Office established.

The office of city manager is established by Chapter 2.08. (Ord. 375 (part), 1974)

2.04.300 Powers and duties.

The powers, duties and responsibilities of the city manager shall be set forth in Chapter 2.08. In addition to those responsibilities therein set forth it shall be his or her responsibility to cause to be prepared administrative manuals setting forth administrative rules, regulations and procedures necessary for the proper functioning of a coordination

The Capitola Municipal Code is current through Ordinance 1061, passed June 22, 2023.

among all departments of city government. These administrative manuals shall be consistent with the provisions of the code and city ordinance. (Ord. 375 (part), 1974)

VI. City Clerk

2.04.310 Office created.

The office of city clerk is established pursuant to Government Code Sections 40800 through 40814 subject to the modifications set forth in Section 2.04.600. This office shall be under the direct control of the city clerk as to statutory duties but subject to the general administrative direction of the city manager. (Ord. 830 § 1, 2001; Ord. 375 (part), 1974)

2.04.320 Powers and duties.

The powers and duties of the city clerk shall be as set forth in applicable Government Code sections. (Ord. 375 (part), 1974)

2.04.330 Insurance and Claims.

Process all insurance matters and claims against the city.

VII. City Attorney

2.04.330 Office created.

The office of the city attorney is created pursuant to Government Code Sections 41800 through 41804. (Ord. 375 (part), 1974)

2.04.340 Powers and duties.

The powers and duties of the city attorney are set forth in Government Code Sections 41801 through 41804. In addition to those powers and duties therein set forth, the city attorney shall be responsible for and be required to:

A. Legislation. Keep the council and city manager informed as to all legislation affecting the city government;

~~B. Insurance and Claims. Process all insurance matters and claims against the city;~~

C. Meetings. Attend designated meetings of boards, commissions and special committees of the city government, and represent city departments and offices before state and local courts, boards or commissions when there is opposing counsel;

D. Proposed Legislation. Prepare and promote state and federal legislation proposed by the city;

E. Annexation Proceedings. Process all annexation proceedings;

F. Ordinance Summaries. For any ordinance, which is lengthy and which can be adequately summarized, the city attorney is empowered to prepare, as an alternative to publishing the full text of the proposed ordinance, a summary in the manner set forth in Government Code Section 36933. (Ord. 591, 1985; Ord. 375 (part), 1974)

VIII. City Treasurer

2.04.350 Office created.

The office of city treasurer is created pursuant to Government Code Sections 41001 through 41007. (Ord. 1028 § 1 (part), 2019; Ord. 375 (part), 1974)

2.04.360 Powers and duties.

The powers and duties of the city treasurer shall be as set forth in applicable Government Code sections. (Ord. 1028 § 1 (part), 2019; Ord. 375 (part), 1974)

2.04.365 Appointment.

The city manager shall nominate a city treasurer for consideration by the city council, which may appoint the nominee with a majority vote. (Ord. 1028 § 1 (part), 2019)

IX. Department of Public Works

2.04.370 Created.

The department of public works is created. (Ord. 375 (part), 1974)

2.04.380 Director – Appointment.

The director of public works shall be the head of the department of public works and shall be appointed by the city manager. ~~The city manager shall serve as director of public works until such time as the growth and expansion of city services demands an increase in staff and personnel in this office.~~ (Ord. 375 (part), 1974)

2.04.390 Director – Powers and duties.

In all cases where the duty is not expressly charged to any other department or office, it shall be the duty of the director of public works to act to secure and preserve the physical properties of the city and to direct and control all the functions assignable to this department. The director of public works shall:

- A. Public Works and Utilities. Supervise the construction, inspection maintenance and operation of the city's public works;
- B. Buildings and Installations. Direct and be responsible for the proper maintenance of city-owned buildings and installations which are not directly assigned to another department or office or which may be assigned by the city manager;
- C. Laws and Regulations. Enforce the laws, ordinances and regulations relating to work done in public streets, easements and rights-of way;
- D. Engineering Work. Perform or direct all phases of engineering work required in connection with the functions of the city;
- E. Contract Work. Approve for acceptance after proper inspection all contract work let by the city affecting streets, alleys;
- F. Other Duties. Perform such other duties as may be required by the city manager. (Ord. 357 (part), 1974)

X. Department of Police

2.04.450 Created.

The department of police is created. (Ord. 375 (part), 1974)

2.04.460 Chief – Appointment.

The police department shall be under the direct supervision of a chief of police who shall be appointed by the city manager. (Ord. 375 (part), 1974)

XI. Director of Finance

2.04.600 Powers and duties.

The power and duties of the director of finance are as follows:

- A. With respect to the city's accounting and necessarily related matters, the director of finance shall act within the official and professional rules of his or her profession and may not be directed to act contrary to those rules.
- B. The director of finance prepares, or supervises preparation of, the city ~~and redevelopment agency's~~ annual financial report(s); oversees annual independent audits; and interfaces with independent auditor(s).
- C. The director of finance conducts, directs and/or oversees all investigative and corrective accounting projects.
- D. As requested, the director of finance advises and consults with the city treasurer on accounting and financial matters relative to his or her office. The director of finance is not staff to the city treasurer, but works closely with and assists that office. The director of finance may serve as the city treasurer.

E. “Finance” and “financial” primarily refers to accounting, reporting and information management aspects of city/agency fiscal activities and procedures related to those activities. It does not include providing advice as to the social desirability of any proposed expenditure over another.

F. Pursuant to Government Code Section 37209, the director of finance shall have the powers and duties otherwise vested in the city clerk under the Government Code Sections 37203, 37205, 37207, 37208, 40802 and 40804. (Ord. 1028 § 1 (part), 2019; Ord. 830 § 1, 2001)

Chapter 2.08
CITY MANAGER

Sections:

- 2.08.010 Office created.
- 2.08.020 Residence.
- 2.08.030 Council member eligibility.
- 2.08.040 Bond.
- 2.08.050 Acting city manager.
- 2.08.060 Compensation.
- 2.08.065 Exemption from civil service.
- 2.08.070 Powers and duties.
- 2.08.080 Law enforcement.
- 2.08.090 Authority over employees.
- 2.08.100 Power of appointment and removal.
- 2.08.110 Administrative reorganization of officers.
- 2.08.120 Ordinances.
- 2.08.130 Attendance at council meetings.
- 2.08.140 Financial reports.
- 2.08.150 Budget.
- 2.08.160 Purchasing agent.
- 2.08.170 Investigations and complaints.
- 2.08.180 Public buildings.
- 2.08.190 Hours of employment.
- 2.08.200 Additional duties.
- 2.08.210 Internal relations with council.
- 2.08.220 Departmental cooperation.
- 2.08.230 Attendance at commission meetings.
- 2.08.240 At-will employment.

2.08.010 Office created.

The office of the city manager of the city is created and established. The city manager shall be appointed by the city council wholly on the basis of his or her administrative and executive ability and qualifications and shall hold office for and during the pleasure of the city council. (Ord. 990 § 1 (part), 2014; Ord. 308 § 1, 1968)

2.08.020 Residence.

Residence in the city at the time of appointment of a city manager shall not be required as a condition of the appointment, but within one hundred eighty days thereafter the city manager must become a resident of the county of Santa Cruz. (Ord. 990 § 1 (part), 2014; Ord. 308 § 2, 1968)

2.08.030 Council member eligibility.

No member of the city council shall be eligible for appointment as city manager until one year has elapsed after such council member has ceased to be a member of the city council. (Ord. 990 § 1 (part), 2014; Ord. 308 § 3, 1968)

2.08.040 ~~Bond.~~

~~The city manager shall furnish a corporate surety bond to be approved by the city council in such sum as may be determined by the city council and shall be conditioned upon the faithful performance of the duties imposed upon the city manager as prescribed in this chapter. Any premium for such bond shall be a proper charge against the city. (Ord. 990 § 1 (part), 2014; Ord. 308 § 4, 1968) Repealed to align with Chapter 2.04.080. Repealed by Ord. _____, 2023.~~

2.08.050 Acting city manager.

The assistant city manager shall serve as manager pro tempore during any temporary absence or disability of the city manager. In the event there is no assistant city manager, the city manager, by a letter filed with the city clerk, shall designate a qualified city administrative officer to exercise the powers and perform the duties of manager during his or her temporary absence or disability. In the event the city manager's absence or disability extends over a six-month period, the city council may, after the six-month period, appoint an acting city manager. (Ord. 990 § 1 (part), 2014; Ord. 308 § 5, 1968)

2.08.060 Compensation.

The city manager shall receive such compensation and expense allowances as the city council from time to time determines, and said compensation and expenses shall be a proper charge against such funds of the city as the city council designates.

In addition, the city manager shall be reimbursed for all actual and necessary expenses incurred by him or her in the performance of his or her official duties, including those incurred when traveling on business pertaining to the city; reimbursement shall only be made, however, when an itemized claim, setting forth the sums expended for such business for which reimbursement is requested, has been presented to and approved by the mayor. (Ord. 990 § 1 (part), 2014; Ord. 308 § 6, 1968)

2.08.065 Exemption from civil service.

The city manager is excluded from civil service or personnel system of the city, and the city manager shall not be entitled to the benefits, advantages or protection of the civil service or personnel system and shall not be subject to the procedures outlined or prevailing to such system. (Ord. 990 § 1 (part), 2014)

2.08.070 Powers and duties.

The city manager shall be the administrative head of the government of the city under the direction and control of the city council except as otherwise provided in this chapter. The city manager shall be responsible for the efficient administration of all the affairs of the city which are under his or her control. In addition to these general powers and administrative head, and not as a limitation thereon, it shall be his or her duty and he or she shall have the powers set forth in Sections 2.08.080 through 2.08.200. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7, 1968)

2.08.080 Law enforcement.

It shall be the duty of the city manager to enforce all laws and ordinances of the city and to see that all franchises, contracts, permits and privileges granted by the city council are faithfully observed. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.1, 1968)

2.08.090 Authority over employees.

It shall be the duty of the city manager and he or she shall have the authority to control, order and give directions to all heads of departments and to subordinate officers and employees of the city under his or her jurisdiction through their department heads. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.2, 1968)

2.08.100 Power of appointment and removal.

It shall be the duty of the city manager to, and he or she shall, appoint, remove, promote and demote any and all officers and employees of the city except the city attorney subject to all applicable personnel ordinances, rules and regulations. (Ord. 1028 § 2, 2019; Ord. 990 § 1 (part), 2014; Ord. 308 § 7.3, 1968)

2.08.110 Administrative reorganization of officers.

It shall be the duty and responsibility of the city manager to conduct studies and effect such administrative reorganization of offices, positions or units under his or her direction as may be indicated in the interest of efficient, effective and economical conduct of the city's business. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.4, 1968)

2.08.120 Ordinances.

It shall be the duty of the city manager and he or she shall recommend to the city council for adoption such measures and ordinances as he or she deems necessary. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.5, 1968)

2.08.130 Attendance at council meetings.

It shall be the duty of the city manager to attend all meetings of the city council unless excused therefrom by the mayor individually or city council as a whole, except when his or her removal is under consideration. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.6, 1968)

2.08.140 Financial reports.

It shall be the duty of the city manager to keep the city council at all times fully advised as to the financial condition and needs of the city. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.7, 1968)

2.08.150 Budget.

It shall be the duty of the city manager to prepare and submit the proposed annual budget to the city council for its approval. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.8, 1968)

2.08.160 Purchasing agent.

It shall be the duty of the city manager and he or she shall be responsible for the purchase of all supplies and services for all the departments or divisions of the city in accordance with city purchasing policy. The city manager shall make no purchase exceeding twenty-five thousand dollars without prior city council approval. No expenditures shall be submitted or recommended to the city council except on report and approval of the city manager. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.9, 1968)

2.08.170 Investigations and complaints.

It shall be the duty of the city manager to make investigations into the affairs of the city and any department or division thereof, and any contract or the proper performance of any obligations of the city. Further, it shall be the duty of the city manager to investigate all complaints in relation to matters concerning the administration of the city government in regard to the service maintained by public utilities in the city. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.10, 1968)

2.08.180 Public buildings.

It shall be the duty of the city manager and he or she shall exercise general supervision over all public buildings, public parks and all other public property which are under the control and jurisdiction of the city council. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.11, 1968)

2.08.190 Hours of employment.

It shall be the duty of the city manager to devote his or her entire time to the duties of his or her office and in furthering the interests of the city. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.12, 1968)

2.08.200 Additional duties.

It shall be the duty of the city manager to perform such other duties and exercise such other powers as may be delegated to him or her from time to time by ordinance or resolution or other official action of the city council. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.13, 1968)

2.08.210 Internal relations with council.

The city council and its members shall deal with the administrative services of the city only through the city manager, except for the purpose of inquiry, and neither the city council nor any member thereof shall give orders to any subordinates of the city manager. The city manager shall take his or her orders and instructions from the city council only when sitting in a duly convened meeting of the city council and no individual councilmember shall give any orders or instructions to the city manager. (Ord. 990 § 1 (part), 2014; Ord. 308 § 8, 1968)

2.08.220 Departmental cooperation.

It shall be the duty of all subordinate officers and the city treasurer and city attorney to assist the city manager in administering the affairs of the city efficiently, economically and harmoniously. (Ord. 990 § 1 (part), 2014; Ord. 308 § 8.1, 1968)

2.08.230 Attendance at commission meetings.

The city manager may attend any and all meetings of the planning commission, ~~recreation and park commission~~, and any other commissions, boards or committees created by the city council, upon his or her own volition or upon direction of the city council. At such meetings which the city manager attends, he or she shall be heard by such

commissions, boards or committees as to all matters upon which he or she wishes to address the members thereof, and he or she shall inform said members as to the status of any matter being considered by the city council, and he or she shall cooperate to the fullest extent with the members of all commissions, boards or committees appointed by the city council. (Ord. 990 § 1 (part), 2014; Ord. 308 § 8.2, 1968)

2.08.240 At-will employment.

The city manager shall be an at-will employee, who may be removed from office, or his or her authority temporarily suspended, at the sole discretion of the majority vote of the whole city council, subject to any such restrictions as are specifically set forth in the city manager's contract of employment. (Ord. 990 § 1 (part), 2014; Ord. 818 § 1, 2000; Ord. 308 § 9, 1968)

Chapter 2.12

PLANNING COMMISSION

Sections:

- 2.12.010 Members – Number.
- 2.12.020 Appointment.
- 2.12.030 Vacancy filling.
- 2.12.035 Alternates.
- 2.12.040 Officers – Organization.
- 2.12.050 Powers and duties.
- 2.12.054 Historic preservation duties.
- 2.12.060 Reference for study.

2.12.010 Members – Number.

The planning commission of the city shall consist of five members. Those commissioners serving at the time of adoption of the ordinance codified in this chapter may continue to serve until replaced in the manner provided in this chapter. All commissioners shall live within the city limits of Capitola or within the sphere of influence of Capitola, as defined by the Santa Cruz Local Area Formation Commission. (Ord. 1036 § 1, 2019; Ord. 428 (part), 1978; Ord. 295 § 1, 1967; Ord. 58 § 1, 1951)

2.12.020 Appointment.

Beginning as soon as the ordinance codified in this chapter becomes effective, each council member may appoint one planning commission member. Except as provided in this chapter, the term of any commissioner so appointed shall terminate fourteen days after the canvassing of the next regular election of council members. However, a commissioner may serve until his or her successor takes office.

Once appointed, a planning commissioner may serve the term above provided unless:

- A. The council member who made the appointment requests removal; or
- B. At least three council members vote for the commissioner’s removal at a noticed open city council meeting. (Ord. 1038 § 1 (part), 2020; Ord. 428 (part), 1978; Ord. 295 § 2, 1967; Ord. 58 § 2, 1951)

2.12.030 Vacancy filling.

In case of a vacancy on the planning commission for any reason except the swearing into office of a new city council member, the city council member who made the appointment to the then vacated position may appoint the replacement. If for any reason the appropriate council member fails to make an appointment to the planning commission within fourteen days after a term has ended or a position vacated, the mayor shall appoint a commissioner to the vacancy. Council members shall appoint either by oral announcement at any regular meeting or special meeting or by a writing delivered to the city manager. Any such appointee may take office as soon as state law allows. (Ord. 428 (part), 1978; Ord. 419, 1977; Ord. 391, 1975; Ord. 295 § 3, 1967; Ord. 285, 1966; Ord. 58 § 3, 1951)

2.12.035 Alternates.

If a planning commissioner does not intend to vacate his or her position, but will be unable to attend two or more consecutive meetings, he or she should, in writing, so notify the city clerk and the council member that appointed him/her. The appointing council member may at any time before or during any long term absence, name an alternate, remove an alternate, or replace an alternate. Three members of the city council may nullify any such appointments. (Ord. 732 § 1, 1992)

2.12.040 Officers – Organization.

The commission shall elect its chairperson from among the appointed members for a term of one year and subject to other provisions of law, may create and fill such other offices as it may determine and may employ such individuals and/or firms as may be required to carry on the work of the commission; provided, however, that expenditures covering such employment must first be authorized by the city council. The commission shall hold at least one

The Capitola Municipal Code is current through Ordinance 1061, passed June 22, 2023.

regular meeting in each month. The commission shall adopt rules for the transaction of business, and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record. (Ord. 58 § 4, 1951)

2.12.050 Powers and duties.

It shall be, the function and duty of the commission to make, adopt and recommend city council adoption of a master plan for the physical development of the city, and of any land outside of the boundaries which, in the judgment of the commission, bears relations to the planning thereof, and to perform all other proper functions of a planning commission pursuant to and in accordance with the planning and zoning law of the state, beginning with Section 65100 of the Government Code and pursuant to and in accordance with any directions issued by the city council whether by ordinance, resolution or minute order. (Ord. 295 § 4, 1967; Ord. 58 § 5, 1951)

2.12.054 Historic preservation duties.

The planning commission shall have the following historic preservation duties:

A. Advise the city council how best to preserve and enhance the historic resources of Capitola and carry on consultations for this purpose;

B. Review periodically the historic preservation element of the general plan;

C. Carry out, assist, and collaborate in studies to identify and evaluate improvements, sites, areas, and vistas worthy of preservation; and recommend to the council designation of historic landmarks, (including archaeological resources) and of vistas to be protected;

D. Advise the council with respect to execution and administration of historic property contracts permitted by Sections 50280 and 50281 of the California Government Code; and advise the council upon aid and assistance available to Capitola under federal, state, county, or other grants-in-aid;

E. Maintain for commission use and for consultation by the public a copy of the register of historic features, of which the city clerk is the official custodian;

F. Recommend a standard design for the markers of plaques which may be erected at designated historic landmarks or historic features. (Ord. 515 § 2, 1982)

2.12.060 Reference for study.

The council may by general or special rule, provide for the reference of any other matter or class of matters to the commission before final action thereon by the public body or officer of the city having final authority thereon, with the provisions that final action thereon shall not be taken until the commission has submitted its report thereon or has had reasonable time to submit the report. The commission shall have full power and authority to make such investigations, maps and reports, and recommendations in connection therewith relating to the planning and development of the city as it seems desirable, providing the total expenditures of the commission shall not exceed the funds available therefor. (Ord. 58 § 6, 1951)

Chapter 2.16

PLANNING DEPARTMENT

Sections:

- 2.16.010 Created.
- 2.16.020 Employees.
- 2.16.030 Director – Appointment and qualifications.
- 2.16.040 Director – Powers and duties.
- 2.16.050 *Repealed.*

2.16.010 Created.

The department of planning is created and established in accordance with Section 65200 et seq., of the Government Code of the state of California. (Ord. 991 § 1 (part), 2014; Ord. 331 § 1, 1970)

2.16.020 Employees.

The number of employees to carry out the functions of the planning department shall be designated by the city manager and the community development director with the approval of the city council. (Ord. 991 § 1 (part), 2014; Ord. 331 § 2, 1970)

2.16.030 Director – Appointment and qualifications.

The community development director shall be appointed by the city manager. He or she shall be qualified pursuant to Section 65201 of the Government Code of the state of California and shall have the ability to manage and direct the planning department, and possess knowledge of the principles of state laws and city ordinances relating to zoning and planning, together with a working knowledge of engineers' drawings, mapping and topography, and have the ability to collect, analyze and interpret data pertaining to planning and zoning activities. (Ord. 991 § 1 (part), 2014; Ord. 331 § 3, 1970)

2.16.040 Director – Powers and duties.

The community development director shall plan and supervise the technical work and administrative detail of the planning commission; serve as secretary to the planning commission and carry out their directives; develop and promote long range planning programs; prepare zoning and other regulatory ordinances in preliminary form; supervise the work of the staff of the planning department; supervise and participate in the administration of zoning ordinances; make land use studies and reports; consult with citizens and officials on planning problems; advise the city council on planning problems; maintain cooperative liaison with other agencies in the planning field, including state and local agencies; answer inquiries from the public concerning zoning regulations. (Ord. 991 § 1 (part), 2014; Ord. 331 § 4, 1970)

2.16.050 Director – Compensation.

Repealed by Ord. 991. (Ord. 331 § 5, 1970)

Chapter 2.18

MOBILE HOME PARK RENT STABILIZATION Revised 7/23

Sections:

- 2.18.010 Purpose and findings. Revised 7/23
- 2.18.020 Definitions. Revised 7/23
- 2.18.030 Applicability. Revised 7/23
- 2.18.031 Exemptions. Revised 7/23
- 2.18.040 Stabilization of rents. Revised 7/23
- 2.18.050 Vacancy control – Establishment of a new base rent. Revised 7/23
- 2.18.060 Anniversary date. Revised 7/23
- 2.18.070 Rent increase limitations. Revised 7/23
- 2.18.080 Information required from mobile home park owner. Revised 7/23
- 2.18.090 Rent dispute resolution process. Revised 7/23
- 2.18.110 Standards of review. Revised 7/23
- 2.18.120 Net operating income. Revised 7/23
- 2.18.130 Gross income. Revised 7/23
- 2.18.140 Operating expenses. Revised 7/23
- 2.18.150 Special base year NOI/base rent adjustments. Revised 7/23
- 2.18.160 Obligations of the parties. Revised 7/23
- 2.18.170 Homeowner’s right of refusal. Revised 7/23
- 2.18.180 Retaliatory acts – Homeowner’s right to organize. Revised 7/23
- 2.18.190 Fees. Revised 7/23
- 2.18.200 Remedies and waiver of rights. Revised 7/23
- 2.18.210 Rights of affected parties reserved. Revised 7/23
- 2.18.220 Extension of time limits. Revised 7/23
- 2.18.230 Regulations. Revised 7/23

2.18.010 Purpose and findings. Revised 7/23

A. The purpose of this chapter is to stabilize mobile home space rents by preventing excessive and unreasonable rent increases, and to assure that mobile home park owners receive a fair and reasonable return on their investment.

B. The city council finds and declares the following:

1. Mobile homes provide an important alternative form of housing; and
2. Based on the most recent available data, within Capitola city limits there are mobile home parks with a total of six hundred eighty-one spaces. Approximately six hundred seventy-four of those spaces are occupied, thus resulting in a vacancy rate of just one percent, and market conditions suggest that the high demand for mobile home spaces is likely to persist; and
3. Capitola does not currently regulate rental amounts or rent increases on mobile homeowners to ensure that rents remain affordable; and
4. Residents of mobile home parks, unlike apartment tenants or residents of other rental properties, are in a unique position in that they have made a substantial investment in a residence for which space is rented or leased; and
5. Some residents of mobile home parks own their coaches, and rent space from the park owner; and
6. The imposition of sudden and excessive rent increases that are beyond the reach of mobile home park residents require such residents to identify alternative sites for the relocation of mobile homes, which is difficult to do given the shortage of vacant mobile home spaces, and restrictions on the age, size or style of mobile homes permitted in many mobile-home parks; and

7. The potential for rents to increase within mobile home parks within the city could cause hardship to a substantial number of mobile homeowners and residents of the parks, many of whom are elderly, on fixed incomes, or are persons of low or moderate income, and these residents would be vulnerable to displacement; and

8. It is necessary to protect mobile homeowners and residents of mobile home parks from unreasonable rent increases and at the same time recognize the rights of mobile home park owners to receive a reasonable return on their investments. (Ord. 1060 § 1 (Att. A), 2023)

2.18.020 Definitions. Revised 7/23

A. “Administrator” means the administrator of the city’s mobile home space rent stabilization program. The administrator shall be the community development director, or such other city employee as the city manager may appoint to serve as administrator.

B. “Affected homeowners” means those mobile homeowners who are subject to a rent increase. For purposes of providing notice of any rent increase and copies pursuant to this chapter and calculating the number of affected homeowners in support of a rent arbitration petition, each mobile home space subject to a rent increase shall be deemed to have only one affected homeowner. Reference to “all affected homeowners” shall mean one homeowner from each mobile home space subject to the proposed rent increase.

C. “Arbitrator” refers to a person who is appointed by the administrator, and is neither a homeowner, nor has an interest in a mobile home park of a nature that would require disqualification under the provisions of the Political Reform Act.

D. “Arms-length transaction” shall refer to a transaction negotiated by unrelated parties, each acting in his or her own self-interest, which serves as a basis for a fair return determination in this chapter.

E. “Base rent” means the authorized rent calculated pursuant to the provisions of Section 2.18.040, plus any rent increase allowed under this chapter, unless it is expressly excluded from base rent, plus any adjustment attributable to vacancy control as provided in Section 2.18.050.

F. “Capital improvements” means those new improvements, replacements, upgrades, or remodeling, which directly and primarily benefit and serve mobile home park homeowners by materially adding to the value of the property and appreciably prolonging its useful life or adapting it to new uses. Capital improvements consist of more than ordinary maintenance and/or repairs, and may be amortized over the useful remaining life of the improvement to the property. Capital improvement costs shall include all costs reasonably and necessarily related to the planning, engineering, and construction of the improvement or replacement and shall include debt service costs, if any, incurred as a direct result of the capital improvement or replacement.

G. “City information sheet” is prepared by the city, and will provide information about the mobile home park rent stabilization ordinance and include the administrator’s contact information.

H. “Comparable space” means a mobile home space in the same mobile home park that is suitable for comparison, taking into account such characteristics as the location and size of the space, lot size, landscaping, adjacency to freeways, ocean views or amenities.

I. “Consumer Price Index” or “CPI” shall mean the Consumer Price Index for All Urban Consumers, San Francisco-Oakland-San Jose region.

J. “Gross income” shall have the meaning set forth in Section 2.18.130.

K. “Homeowner” shall mean an existing mobile homeowner.

L. “Homeowner representative” shall mean a designated homeowner association (HOA) or its designee who shall have the authority to represent the interest of, negotiate on behalf of, and bind the homeowners.

M. “Housing service” shall mean a service or facility provided by the mobile home park owner related to the use or occupancy of a mobile home space, which is neither a capital improvement nor a substantial rehabilitation.

“Housing service” includes, but is not limited to, repairs (including street repairs), replacement, maintenance, landscaping, painting, lighting, heat, water, utilities, laundry facilities, refuse removal, recreational and meeting facilities, parking, security service, and employee services.

N. “Mobile home” has the same meaning as the definition of “mobilehome” defined in Civil Code Section 798.3, as it may be amended from time to time, or a successor code provision.

O. “Mobile homeowner” means a person who owns a mobile home and also rents a mobile home space in a mobile home park pursuant to a rental agreement that is not otherwise exempt from regulation under this chapter.

P. “Mobile home park” has the same meaning as the definition of “mobilehome park” defined in Civil Code Section 798.4, as it may be amended from time to time, or successor code section.

Q. “Mobile home park owner” means a park owner, lessor, or sublessor of a mobile home park in the city who receives or is entitled to receive rent for the use or occupancy of any mobile home space thereof and who reports to the Internal Revenue Service any income received or loss of income resulting from such ownership or claims any expenses, credits, or deductions because of such ownership.

R. “Mobile home space” means any site within a mobile home park located in the city intended, designed, or used for the location or accommodation of a mobile home. “Mobile home space” includes any accessory structures or appurtenances attached to the mobile home or used in conjunction therewith.

S. “Net operating income” shall have the meaning set forth in Section 2.18.120.

T. “Operating expenses” shall have the meaning set forth in Section 2.18.140.

U. “Rent” means the total consideration, including any bonus, benefit, or gratuity, demanded or received by a mobile home park owner for or in connection with the use occupancy of a mobile home dwelling unit.

V. “Rent increase” means any additional rent demanded of, or paid by, a homeowner for mobile home space. “Rent increase” includes any reduction in housing services without a corresponding reduction in the amount demanded or paid for rent.

W. “Rent stabilization administration fee” means a fee established by resolution of the city council in accordance with the provisions of Section 2.18.190.

X. “Substantial rehabilitation” means that work done by a mobile home park owner to a mobile home space or to the common areas of the mobile home park, exclusive of capital improvements, which has a value in excess of twenty thousand dollars, and is performed either to secure compliance with any state or local law, or to repair damage resulting from fire, earthquake, or other casualty or natural disaster, to the extent such work is not reimbursed by insurance or other benefits. Costs of substantial rehabilitation include all costs reasonably and necessarily related to the planning, engineering, and construction of the work. Such costs shall also include debt service costs incurred as a direct result of the substantial rehabilitation work, if any. (Ord. 1060 § 1 (Att. A), 2023)

2.18.030 Applicability. Revised 7/23

This chapter applies to every mobile home park within the city, except those to which an exemption applies. (Ord. 1060 § 1 (Att. A), 2023)

2.18.031 Exemptions. Revised 7/23

A. This chapter shall not apply to mobile home spaces that are subject to a written rental agreement exempt from regulation pursuant to Civil Code Section 798.17. This chapter shall also not apply to a newly constructed space exempt from regulation pursuant to Civil Code Sections 798.45 and 798.7.

B. These exceptions shall be effective only until the expiration or other termination of the rental agreement subject to the exception, whereupon all provisions of this chapter shall immediately be applicable to the mobile home space, unless the rental agreement meets the criteria of Civil Code Section 798.17.

C. This chapter shall not apply to any mobile home spaces that are exempt from local mobile home rent stabilization ordinances as required by law, including, but not limited to, Civil Code Section 798.21, and including but not limited to mobile home spaces that are not the principle residence of the mobile homeowner and mobile homeowner has not rented the mobile home to another party.

D. This chapter shall not apply to any mobile home parks that are owned by the mobile homeowners in the mobile home park, pursuant to Civil Code Section 799.1(a).

E. This chapter shall not apply to any mobile home space subject to any agreement that restricts rent increases in a manner that is more protective than this chapter. (Ord. 1060 § 1 (Att. A), 2023)

2.18.040 Stabilization of rents. Revised 7/23

A. It shall be unlawful to demand, accept, receive, or retain rent for a mobile home space in excess of the base rent plus any increases that are authorized by this chapter, unless an exemption applies.

B. Base Rent Calculation.

1. Except as provided herein, a mobile home park owner shall not demand, accept, or retain rent for a mobile home space exceeding the rent in effect for that space on May 25, 2023. In the event that a mobile home space was not occupied on May 25, 2023, the base rent for that mobile home space shall be the highest mobile home space rent charged by the mobile home park owner for a comparable space in the mobile home park on May 25, 2023, plus any rent increases allowed thereafter pursuant to this chapter.

2. If a mobile home space is exempted from the provisions of this chapter because it is the subject of a rental agreement pursuant to California Civil Code Section 798.17, and that agreement expires or is terminated by operation of law and is not renewed, then the base rent, until the next annual adjustment pursuant to this chapter, shall be the average of the three highest rents of comparable spaces on May 25, 2023, plus any rent increases allowed thereafter pursuant to this chapter.

3. It shall be presumed that the base rent yields a fair return.

C. A mobile home park owner may seek an adjustment to the initial base rent if it can be clearly established that an adjustment is necessary for the mobile home park owner to receive a fair return. In seeking an adjustment to the initial base rent under this section, the procedures set forth in Sections 2.18.080 and 2.18.090 shall apply.

The guidelines for determining an adjustment to the initial base rent are set forth in Section 2.18.150. (Ord. 1060 § 1 (Att. A), 2023)

2.18.050 Vacancy control – Establishment of a new base rent. Revised 7/23

A. A mobile home park owner shall be permitted to increase the space rent by up to 15 percent whenever a lawful vacancy occurs, and this amount shall be considered the new base rent for a mobile home space. For purposes of this chapter, “lawful space vacancy” shall mean:

1. A vacancy occurring because of the termination of the tenancy of a mobile homeowner in accordance with California Civil Code Sections 798.56 through 798.58; or

2. A vacancy occurring because of the abandonment of a mobile home pursuant to California Civil Code Section 798.61; or

3. A vacancy occurring due to sale of a mobile home on site to any mobile home park owner-approved purchaser, pursuant to California Civil Code Section 798.74.

B. Any alleged violation of this section shall be subject to arbitration pursuant to Section 2.18.090. (Ord. 1060 § 1 (Att. A), 2023)

2.18.060 Anniversary date. Revised 7/23

The anniversary date for all rent increases in the mobile home park owner’s park shall be established by city council resolution. Rent increases, if any, except as specified below, shall be enacted only on the anniversary date. The

mobile home park owner shall post the anniversary date in the park office or areas where it can easily be seen by homeowners. (Ord. 1060 § 1 (Att. A), 2023)

2.18.070 Rent increase limitations. Revised 7/23

A. As of the effective date of the ordinance codified in this chapter, no rent increases may be implemented within twelve months of the effective date of the preceding rent increase unless otherwise authorized under this chapter. The permissible annual increase shall be the lesser of:

1. Five percent of the base rent plus one hundred percent of the preceding year's annual average change in the Consumer Price Index; or
2. Ten percent of the base rent.

B. A mobile home park owner shall not implement any additional rent increase within a twelve-month period above the authorized amount pursuant to subsection A of this section, unless otherwise provided in this chapter.

C. In the event that a mobile home park owner wishes to implement a rent increase on the anniversary date or within a twelve-month period more than the amount permitted in subsection A of this section the procedures set forth in Sections 2.18.080 and 2.18.090 shall apply.

D. The arbitrator may reduce the proposed rent increases pursuant to subsection B or C of this section to a figure based on the evidence submitted by the mobile home park owner or the park owner representative to be a fair return.

E. Any notice of a rent increase shall be provided in writing to affected homeowners at least ninety days before any rent increase is to take effect. (Ord. 1060 § 1 (Att. A), 2023)

2.18.080 Information required from mobile home park owner. Revised 7/23

A. Within thirty days after the effective date of this chapter and upon the re-renting of each mobile home space thereafter, the mobile home park owner shall supply each affected homeowner or prospective homeowner with a copy of the city information sheet.

B. Whenever the mobile home park owner serves a notice of a proposed rent increase, except a notice of proposed rent increase implemented pursuant to Section 2.18.070(A), the mobile home park owner shall simultaneously serve a written notice that sets forth the following:

1. The amount of the rent increase both in dollars and as a percentage of existing rent and documentation supporting the proposed increase, including but not limited to: a summary of the unavoidable increases in maintenance and operating expenses; a statement of the cost, nature, amortization, and allocation among mobile home spaces of any substantial rehabilitation or capital improvement; a summary of the increased cost of the mobile home park owner's debt service and the date and nature of the sale or refinancing transaction; a summary of the mobile home park owner's net operating income of the preceding twenty-four months and other relevant information that supports the level of rent increase desired;
2. The availability of a current listing of all other affected homeowners and the spaces which they rent;
3. The address and telephone number of the administrator and statement that the homeowner is encouraged to contact the administrator for an explanation of this chapter;
4. A copy of the petition form prepared and provided by the administrator that initiates the rent review process established by this chapter;
5. The time and place for a mandatory meeting with the mobile home park owner and homeowners to be held on the mobile home park premises. The meeting shall be held within ten days from the service of the notice of proposed rent increase. The mobile home park owner and homeowner shall endeavor to resolve the dispute informally.
6. In the event the dispute is not resolved informally, the mobile home park owner shall, within ten days of the meeting required in subsection (B)(5) of this section, file with the administrator two copies of the notice and

summary of expenses required in subsection (B)(1) of this section, along with two copies of all relevant financial records, bills or documents that substantiate the proposed increase. This financial information shall be verified in writing by an auditor or certified public accountant or certified in writing as true and correct under penalty of perjury by the mobile home park owner. This information will be made available at City Hall for inspection and copying by the affected homeowners.

C. A mobile home park owner failing to provide any information, documents, or notices required by this section shall not be entitled to collect any rent increase that might otherwise be awarded by an arbitrator. Such failure shall also be a defense in any action brought by the mobile home park owner to recover possession of a mobile home space or to collect any rent increase from the homeowner.

D. An affected homeowner who is given notice of a rent increase is entitled to file a petition for rent review as provided in Section 2.18.090 regardless of whether the mobile home park owner has provided the affected homeowner with all the information, documents and notices required by this chapter. (Ord. 1060 § 1 (Att. A), 2023)

2.18.090 Rent dispute resolution process. Revised 7/23

A. If a rent increase is proposed pursuant to Section 2.18.070(B) and (C), then after service of the rent increase notice and the production of the accompanying information required by Section 2.18.080, the mobile home park owner shall set a time and place for an informational meeting with the homeowners on the mobile home park premises, or an alternative location with the agreement of the homeowners' representative. The informational meeting shall be held within twenty days from the service of the notice of proposed rent increase. The mobile home park owner shall give affected homeowners and the administrator at least ten days' advance written notice of this meeting.

B. Petition Procedures.

1. If discussions between the mobile home park owner and affected homeowners do not resolve the dispute, the homeowners or homeowner representative may file with the administrator a petition for rent review with a copy of the notice of rent increase within thirty days after receipt of the rent increase notice.
2. As soon as possible after a petition has been filed with respect to mobile home spaces that are within a mobile home park, the administrator shall, to the extent possible, consistent with the time limitations provided herein, consolidate petitions involving similarly situated affected homeowners.
3. Upon the filing of a petition, the rent increase shall not be implemented until and to the extent it is awarded by an arbitrator or until the petition is abandoned by the affected homeowners or the homeowner representative. "Abandoned" as used herein shall mean a failure to actively pursue the necessary steps to prepare the homeowners' case for the arbitration.

C. Contents of Petition.

1. The petition for rent review shall: (a) set forth the total number of affected mobile home spaces in the mobile home park; (b) identify the name of the homeowners who occupy each space; and (c) state the date upon which the notice of the rent increase was received by the homeowner.
2. After obtaining the required signatures of affected homeowners, the homeowners shall deliver the petition or mail it by certified mail to the administrator at the following address: City of Capitola, 420 Capitola Avenue, Capitola, California 95010. No petition shall be accepted unless it is accompanied by the requisite number of signatures and is received in the office of the administrator within the thirty-day period set forth in subsection B of this section. The administrator shall provide a copy of the completed petition to the mobile home park owner and the arbitrator.

D. After the administrator has accepted a petition for rent review, the administrator shall remit to the mobile home park owner and petitioning homeowners or the homeowner representative an information questionnaire in such form as the administrator may prescribe. The completed information questionnaire must be returned to the administrator at least five business days prior to the date scheduled for hearing of the petition by the arbitrator. The administrator

shall provide copies of the completed information questionnaire to the arbitrator, the mobile home park owner, and the affected homeowners or the homeowner representative.

E. Upon receipt of a petition, or upon an affected homeowner's claim of a vacancy control rent increase violation pursuant to Section 2.18.050, the administrator shall assign an arbitrator. The administrator shall set a date for the arbitration hearing. The mobile home park owner and all affected homeowners shall be notified immediately in writing by the administrator of the date, time, and place of the hearing either in person or by ordinary mail. Any documents to be presented at the hearing by either the park owner or the affected homeowners shall be served on the other party, the administrator, and the arbitrator at least ten working days before the hearing by mail or in-person delivery. All financial documents submitted shall be verified in writing by an auditor or certified public accountant, or certified in writing as true and correct under penalty of perjury by the mobile home park owner.

F. Arbitration Hearing.

1. The mobile home park owner and any affected homeowners, or their representatives, may appear at the hearing and offer oral and documentary evidence. The burden of proving that the amount of rent increase is reasonable shall be on the mobile home park owner by a preponderance of the evidence. The hearing need not be conducted according to technical rules relating to evidence and witnesses.

2. Any jurisdictional or procedural dispute regarding the process set forth herein may be decided by the arbitrator.

3. The arbitrator shall, within fourteen days of the conclusion of the hearing, submit by mail a written statement of decision and the reasons for the decision to the administrator. The administrator shall mail copies of the decision to the mobile home park owner and affected homeowners.

4. The decision of the arbitrator shall be final and binding upon the mobile home park owner and affected homeowners, and subject to the provisions of California Code of Civil Procedure Section 1094.5.

G. It is the intent of the council to have a final decision rendered within ninety days of the initial notice of the rent increase. The administrator or the arbitrator may, however, modify the time periods set forth herein at his or her discretion to promote the purposes of this chapter. (Ord. 1060 § 1 (Att. A), 2023)

2.18.110 Standards of review. Revised 7/23

A. The arbitrator shall determine whether rent increases proposed or imposed by the mobile home park owner are reasonable based upon the circumstances and this chapter. The arbitrator shall take into consideration that the purpose of this chapter is to permit mobile home park owners a just and reasonable return, while protecting homeowners from unnecessary or unreasonable rent increases.

B. The arbitrator shall not allow more than one rent increase per mobile home space per twelve-month period, unless a mobile home park owner can clearly establish that the rent increase is necessary to cover costs of operation, maintenance, capital improvements, and/or substantial rehabilitation not reasonably foreseeable at the time notice of the preceding rent increase was given.

C. Maintenance of Net Operating Income.

1. It shall be presumed that the base year net operating income adjusted by seventy-five percent of the increase or decrease in the CPI since the base year yields a fair return. Mobile home park owners shall be entitled to maintain and increase their net operating income in accordance with this section. The arbitrator shall make a determination of whether the mobile home park owner's net operating income yields a fair return under this standard.

2. The formula for calculating the fair NOI return shall be as follows:

$$\text{Fair NOI} = \text{Base Year NOI} \times (1 + 0.75) \% \text{ preceding years' annual average change in CPI}$$

3. Except as provided in Section 2.18.150, it shall be presumed that the net operating income produced by the mobile home park during the base year provided a fair return.

4. Calendar year 2022 shall be established as the base year for purposes of determining whether a mobile home park owner's net operating income provides a fair return. If a satisfactory base year is, in the arbitrator's opinion, not otherwise available, such as where a mobile home park owner did not own the subject property in the base year and/or the 2022 operating expenses are not available, the arbitrator may take any relevant evidence into account to construct a base year.

5. The base year CPI shall be the CPI level in May 2022.

6. The percentage change in the CPI shall be calculated by using the preceding year's average CPI prior to the noticed increase.

7. The comparison NOI year shall be the most recent calendar or fiscal year, unless another period is found by the arbitrator to be more appropriate.

D. A park owner may seek a rent increase based on the cost of a completed new capital improvement, as defined in Section 2.18.020, together with a reasonable return upon the capital improvement investment, only if the mobile home park owner has:

1. Established by written verification or other competent evidence to the satisfaction of the arbitrator that the costs of the new capital improvement are factually correct as claimed;

2. Cost factored and amortized the costs of the capital improvement over the good faith estimate of the remaining life of the improvement, but in no event for a period of less than sixty months; and

3. Allocated the increase among affected homeowners on a per space basis and separately itemized such increase on the rent bill. Such increases shall not be considered included in the base rent for purposes of the annual permissible rent increases pursuant to Section 2.18.070(A).

E. Mitigating Factors. In evaluating a rent increase, the arbitrator shall also consider the following factors in addition to any other factors the arbitrator deems relevant in order to determine whether there are any circumstances that may justify a reduction in a proposed rent increase:

1. In the event the mobile home park owner reduces or eliminates any housing services, a proportionate share of the cost savings due to such reduction or elimination shall be passed on in the form of a decrease in existing rent or a decrease in the amount of a rent increase otherwise proposed or permitted by this chapter.

2. The physical condition of the mobile home space or park of which it is a part, including the quantity and quality of maintenance and repairs performed during the preceding twelve months.

F. Notwithstanding any other provision to the contrary, no provision of this chapter shall be applied to prohibit the granting of a rent increase that is demonstrated to be necessary to provide a mobile home park owner with a fair and reasonable return. (Ord. 1060 § 1 (Att. A), 2023)

2.18.120 Net operating income. Revised 7/23

In evaluating a rent increase imposed by a mobile home park owner to maintain the mobile home park owner's net operating income, "net operating income" (NOI) shall mean the gross income as defined in Section 2.18.130 of the mobile home park less the operating expenses as defined in Section 2.18.140. (Ord. 1060 § 1 (Att. A), 2023)

2.18.130 Gross income. Revised 7/23

For purposes of calculating the net operating income pursuant to Section 2.18.120, "gross income" shall mean the sum of the following:

A. Gross mobile home space rents, computed as gross space rental income at one hundred percent occupancy; plus

B. Other income generated as a result of the operation of the mobile home park, including, but not limited to, fees for services actually rendered; plus

C. Revenue received by a mobile home park owner from the sale of water, sewer, refuse collection, gas, and electricity to homeowners where such utilities or services are billed individually to the homeowners by the mobile home park owner. Such revenue shall equal the total cost of the utilities or services to the homeowners minus the amount paid by the mobile home park owner for such utilities or services to the utility or service provider; minus

D. Uncollected mobile home space rents due to vacancy and bad debts to the extent that the same are beyond a mobile home park owner's control. Uncollected mobile home space rents in excess of three percent of gross mobile home space rents shall be presumed to be unreasonable unless established otherwise and shall not be included in computing gross income. If uncollected mobile home space rents must be estimated, then the average of the preceding three years' experience shall be used. (Ord. 1060 § 1 (Att. A), 2023)

2.18.140 Operating expenses. Revised 7/23

A. For purposes of calculating net operating income pursuant to Section 2.18.120, "operating expenses" may include:

1. Real property taxes and assessments.
2. Utility costs to the extent that they represent costs to the mobile home park owner which are not passed through to homeowners of the mobile home park.
3. Management expenses (including the compensation of administrative personnel, including the value of any mobile home space offered as part of compensation for such services), reasonable and necessary advertising to ensure occupancy, legal and accounting services as permitted herein, and other managerial expenses. Management expenses are presumed to be not more than five percent of gross income, unless established otherwise.
4. In addition to the management expenses listed above, if the mobile home park owner performs managerial or maintenance services which are uncompensated, the mobile home park owner may include the reasonable value of such services or operating expenses. Mobile home park owner-performed labor shall be limited to five percent of gross income unless the arbitrator finds that such a limitation would be substantially unfair in a given case. A mobile home park owner must devote substantially all of the mobile home park owner's time, that is, at least forty hours per week, to performing such managerial or maintenance services in order to warrant the full five percent credit as an operating expense. No credit for such services shall be authorized unless a mobile home park owner documents the hours utilized in performing such services and the nature of the services provided.
5. Normal repair and maintenance expenses for the grounds and common facilities, including but not limited to landscaping, cleaning, and repair of equipment and facilities.
6. Operating supplies such as janitorial supplies, gardening supplies, and stationery.
7. Insurance premiums prorated over the life of the policy.
8. Other taxes, fees, and permits, except as provided in Section 2.18.190.
9. Reserves for replacement of long-term improvements or facilities, provided that accumulated reserves shall not exceed five percent of gross income.
10. A mobile home park owner may include the cost of necessary capital improvement or substantial rehabilitation expenditures which would exceed existing reserves for replacement. A necessary capital improvement shall be an improvement required to maintain the common facilities and areas of the mobile home park in a decent, safe, and sanitary condition or to maintain the existing level of mobile home park amenities and services. In the event that the necessary capital improvement or substantial rehabilitation expenditure is necessitated as the result of an accident, disaster, or other event for which the mobile home park owner

received insurance or other benefits, only those costs otherwise allowable and exceeding such benefits may be calculated as operating expenses.

Expenditures for necessary capital improvements to upgrade existing facilities, together with a reasonable return upon the capital improvement investment made by the mobile home park owner, shall be an allowable operating expense only if the park owner has:

- a. Informed the affected homeowners prior to initiating construction or implementation of the capital improvement regarding the nature, purpose and estimated cost of the improvement; and
- b. Established by written verification or other competent evidence to the satisfaction of the arbitrator that the costs of capital improvement provided to the homeowners for their general use are factually correct as claimed; and
- c. Cost factored and amortized the costs of the improvement over the good faith estimate of the remaining life of the improvement, but in no event for a period of less than sixty months; and
- d. Allocated the increase among affected homeowners on a per space basis and separately itemized such increase on the rent bill. Such increases shall not be considered included in the base rent for purposes of the annual permissible rent increases pursuant to Section 2.18.070(A).

11. Increases in interest payments which result from one of the following situations or the equivalent thereof:

- a. Refinancing of the outstanding principal owed for the acquisition of a park where such refinancing is mandated by the terms of a financing transaction entered into prior to May 25, 2023; for instance, termination of a loan with a balloon payment; or
- b. Increased interest costs incurred as a result of a variable interest rate loan used to finance the acquisition of the park and entered into prior to May 25, 2023.
- c. In the event that the mobile home park is financed as part of a multi-asset portfolio, the allowable increase in interest costs shall be limited to the amount reasonably attributable to the mobile home park or mobile home parks located in the city, based on the percentage of total asset value or such allocation established in loan documents.
- d. In refinancing, increased interest shall be permitted to be considered as an operating expense only where the mobile home park owner can show that the terms of the refinancing were reasonable and consistent with prudent business practices under the circumstances.

B. "Operating expenses" shall not include the following:

1. Debt service expenses, except as provided in subsection (A)(11) of this section;
2. Depreciation;
3. Any expense for which the mobile home park owner is reimbursed; or
4. Attorneys' fees and costs (except printing costs and documentation as required by Section 2.18.080) incurred in proceedings before an arbitrator or in connection with legal proceedings challenging the decision of an arbitrator or the validity or applicability of this chapter.

C. Whenever a particular expense exceeds the normal industry or other comparable standard, the mobile home park owner shall bear the burden of proving the reasonableness of the expense. To the extent that the arbitrator finds any such expense to be unreasonable, the arbitrator shall adjust the expense to reflect the normal industry or other comparable standard. (Ord. 1060 § 1 (Att. A), 2023)

2.18.150 Special base year NOI/base rent adjustments. Revised 7/23

A. Mobile home park owners may obtain a one-time special adjustment to the base year NOI and/or base rent dates if the mobile home park owner rebuts the presumption that the base year NOI and/or base rent date yielded a fair return. The arbitrator shall not make such a determination unless the arbitrator has first made at least one of the following findings:

1. That the mobile home park owner's operating expenses in the base year were unusually high or low in comparison to the three years prior to the base year. The average expenses for this period shall be presumed to reflect reasonable average annual expenses and the average of such expenses shall be used to calculate and adjust the base year NOI.

In determining whether the park owner's operating expenses were unusually high or low, the arbitrator shall consider whether:

- a. The park owner made substantial capital improvements during the base year, which were not reflected in the rent levels on the base rent date.
- b. Substantial repairs were made due to uninsured damage caused by fire, natural disaster or vandalism.
- c. Maintenance and repair were below accepted standards so as to cause significant deterioration in the quality of housing services.
- d. Other expenses were unreasonably high or low notwithstanding the following of prudent business practice.

2. That the rent was disproportionate due to one of the enumerated factors below:

- a. The rent on the base date was exceptionally high or low due to the fact that the rent was not established in an arms-length transaction.
- b. The rent on the base rent date was substantially higher or lower than at other times of the year by reason of premiums being charged or rebates given for reasons unique to particular spaces.

B. If the circumstances specified in subsection (A)(2) of this section are demonstrated, the base rent date shall be adjusted to reflect the rent that would have been received if the base rent date had been set under general market conditions. In making this adjustment, the arbitrator shall utilize the median rent in effect on the base rent date, or a good faith estimate of such median rent, for comparable spaces within the mobile home park or, if necessary, other comparable parks. Comparability shall be judged based on the location of the park, services, amenities provided, ocean views, lot size, landscaping, and other relevant factors. (Ord. 1060 § 1 (Att. A), 2023)

2.18.160 Obligations of the parties. Revised 7/23

A. After the mobile home park owner's proposed effective date of a noticed rent increase, if the arbitrator finds that the proposed increase or any portion thereof that was previously inoperative is justified, all affected homeowners shall pay the amount found justified to the mobile home park within thirty days after the decision is made.

B. If the arbitrator finds that an increase or any portion thereof is not justified, the mobile home park owner shall refund any amount found to be unjustified, but that had been paid, to all affected homeowners within ninety days of the arbitrator's decision. In the event that the tenancy of an affected homeowner is terminated for any reason prior to receipt of a refund, the balance of the credit due the homeowner shall be paid by the mobile home park owner within thirty days from the date of the termination of the tenancy.

C. Any sum of money that under the provisions of this section is the obligation of the mobile home park owner or homeowner to pay, as the case may be, shall constitute a debt and, subject to the foregoing provisions of this section, may be collected in any manner provided by law for the collection of debts. (Ord. 1060 § 1 (Att. A), 2023)

2.18.170 Homeowner's right of refusal. Revised 7/23

An affected homeowner may refuse to pay any increase in rent which is in violation of this chapter, provided a petition has been filed and either no final decision has been reached by an arbitrator or the increase has been

determined to violate the provisions of this chapter. Such right of refusal to pay shall be a defense in any action brought to recover possession of a mobile home space or to collect the rent increase. (Ord. 1060 § 1 (Att. A), 2023)

2.18.180 Retaliatory acts – Homeowner’s right to organize. Revised 7/23

No mobile home park owner may retaliate against a homeowner, homeowner representative, or prospective homeowner for the assertion or exercise of rights under this chapter in any manner. This includes, but is not limited to, threatening to bring or bringing an action to recover possession of a mobile home space, engaging in any form of harassment that causes a homeowner to quit the premises, dissuading a prospective homeowner from freely exercising the homeowner’s legal option to choose a tenancy of a shorter term, decreasing housing services, increasing the mobile home space rent, or imposing or increasing a security deposit or any other charge payable by a homeowner. (Ord. 1060 § 1 (Att. A), 2023)

2.18.190 Fees. Revised 7/23

A. The city is authorized to impose a rent stabilization administration fee (“fee”) chargeable against each mobile home space in the city subject to this chapter. The administrator may recommend to the city from time to time the amount of the fee and the council may adopt such fee by resolution at a public hearing.

B. Within sixty days of the adoption of the ordinance codified in this chapter, each mobile home park owner in the city shall register with the city. The mobile home park owner shall provide the name and address of the mobile home park owner, and the current rent roll for all spaces which shall identify: (1) the length of the lease term for each space; (2) the expiration of the lease term for each space; (3) current rents and other fees or charges that are received by the mobile home park owner itemized per mobile home space; (4) the number of mobile home spaces, including both occupied and unoccupied spaces, contained in that mobile home park owner’s mobile home park; and (5) the mobile home park owner’s determination of comparable spaces in the mobile home park, along with a description of how the spaces are comparable. The provision of the information required by this subsection B must also be made immediately upon change of ownership of the mobile home park, or an increase or a decrease in the number of spaces available at a mobile home park owner’s mobile home park. (Ord. 1060 § 1 (Att. A), 2023)

2.18.200 Remedies and waiver of rights. Revised 7/23

A. In the event that a mobile home park owner demands, accepts, receives, or retains any payment in excess of the amounts allowed under this chapter, the homeowner may file a civil suit against the mobile home park owner. A mobile home park owner who demands, accepts, receives, or retains any payment of rent in excess of the amounts allowed under this chapter shall be liable to the homeowner in the amount by which the payment or payments have exceeded the allowable rent. In such a case, the rent shall be adjusted to reflect the lawful rent pursuant to this chapter.

B. A mobile home park owner who willfully demands, accepts, or retains any payment of rent in violation of the provisions of this chapter shall be liable in a civil action to the person from whom payment is demanded, accepted or retained for damages in the sum of three times the amount by which payment or payments demanded, accepted or retained exceed the maximum rent which could lawfully be demanded, accepted or retained. A prevailing homeowner in a civil action brought to enforce this chapter shall be awarded reasonable attorneys’ fees and costs as determined by the court. No administrative remedy need be exhausted prior to filing suit pursuant to this section.

C. The remedies available in this chapter are not exclusive and may be used cumulatively with any other remedies available in this chapter or at law.

D. Waiver of Rights.

1. Any waiver or purported waiver by a homeowner of rights granted under this chapter prior to the time when said rights may be exercised shall be void as contrary to public policy, except as provided in this section. It shall be unlawful for a mobile home park owner to require or attempt to require, as a condition of tenancy in a mobile home park, a homeowner, or prospective homeowner, to waive, in a lease or rental agreement, the rights granted to a homeowner by this chapter.

2. It shall be unlawful for a mobile home park owner to deny or threaten to deny a tenancy in a mobile home park to any person on account of such person’s refusal to enter into a lease or rental agreement or any other agreement under which such person would waive the rights granted to a tenant by this chapter.

3. Nothing in this section shall preclude a mobile homeowner or tenant, or prospective homeowner, from entering into a lease or rental agreement; provided, that such lease or rental agreement is not procured by a requirement that it be entered into as a condition of tenancy in the mobile home park, and is not procured under a threat of denial of tenancy in the mobile home park. (Ord. 1060 § 1 (Att. A), 2023)

2.18.210 Rights of affected parties reserved. Revised 7/23

A. This chapter shall not be construed to limit or curtail any other action or proceeding which may be pursued by an affected homeowner or mobile home park owner before any court or other body having jurisdiction thereof.

B. Defense to Action for Recovery of Possession.

1. A mobile home park owner's failure to comply with any of the provisions of this chapter or any regulations promulgated hereunder shall serve as a complete affirmative defense in any action brought to recover possession of a mobile home space.

2. A homeowner's refusal to pay rent in excess of the amount allowed under this chapter shall be a complete affirmative defense in any action brought to: (a) recover possession of a mobile home space for nonpayment of rent; or (b) collect rent in excess of the amount allowed under this chapter. (Ord. 1060 § 1 (Att. A), 2023)

2.18.220 Extension of time limits. Revised 7/23

By written agreement of the parties, or for good cause shown to the arbitrator, the time frames provided for under this chapter may be extended. (Ord. 1060 § 1 (Att. A), 2023)

2.18.230 Regulations. Revised 7/23

The city council may issue rules and regulations as necessary to further the purpose of this chapter. If any portion of this chapter is declared invalid or unenforceable by decision of a court of competent jurisdiction or rendered invalid or unenforceable by law, the city council shall have the authority to enact replacement regulations consistent with the intent and purpose of the invalidated or unenforceable provisions of this chapter to the extent necessary to resolve any inconsistency. The subject matter of such replacement regulations shall be limited to the matters addressed in this chapter. (Ord. 1060 § 1 (Att. A), 2023)

Chapter 2.20
HEALTH OFFICER

Sections:

- 2.20.010 Designated.
- 2.20.020 Arrest power.

2.20.010 Designated.

The health officer of the county together with his or her delegated subordinates are designated as the health officer of the city and empowered to carry out all responsibilities of the health officer of the city as set forth in the city code or enumerated by ordinance. (Ord. 400 (part), 1976)

2.20.020 Arrest power.

The health officer and his or her delegated subordinates, pursuant to the provisions of Section 836.5 of the Penal Code of the state of California may arrest a person who has committed a misdemeanor in his or her presence which is a violation of an ordinance, statute, or law, enforcement of which is under the administration of the health officer. Upon making such an arrest, the health officer or his or her delegated subordinate shall release the person arrested pursuant to Section 853.6 of the Penal Code, the provisions of which are adopted by reference as part of this section. (Ord. 400 (part), 1976)

Chapter 2.24

CONFLICT OF INTEREST

Sections:

- 2.24.010 Adoption.
- 2.24.020 Definitions.
- 2.24.030 Applicability.
- 2.24.040 Disclosure requirements.
- 2.24.050 Circumstances requiring disqualification.
- 2.24.055 Acceptance of employment prohibited.
- 2.24.060 Copy filed.

2.24.010 Adoption.

In compliance with Section 87300 of the Government Code, the city council adopts this conflict of interest ordinance. (Ord. 405 § 1, 1976)

2.24.020 Definitions.

Except as otherwise indicated, the definitions contained in the Political Reform Act of 1974 (Government Code Section 81000) and regulations adopted pursuant hereto are incorporated into this conflict of interest code. (Ord. 405 § 5, 1976)

2.24.030 Applicability.

This conflict of interest ordinance shall be applicable to members of the city council, whether acting as council members or as members of any city board or commission. (Ord. 405 § 2, 1976)

2.24.040 Disclosure requirements.

Members of the city council are required, pursuant to Government Code Section 87200, to disclose investments, interest in real property and income. No other or no additional disclosure requirements are imposed by this conflict of interest ordinance. (Ord. 405 § 3, 1976)

2.24.050 Circumstances requiring disqualification.

Any member of the city council must disqualify himself or herself from making or participating in the making of any decisions which will foreseeably have a material financial effect, distinguishable from its effect on the public generally, on any economic interest, as defined in Government Code Section 87103. No member shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. (Ord. 405 § 4, 1976)

2.24.055 Acceptance of employment prohibited.

A member of the city council, planning commission or architectural and site review committee shall not solicit employment relative to a project which has previously come before that member's council, commission or committee for hearing. (Ord. 847 § 1, 2003)

2.24.060 Copy filed.

The city clerk is directed to forward a certified copy of the ordinance codified in this chapter to the Fair Political Practices Commission. (Ord. 405 § 6, 1976)

Chapter 2.28
PUBLIC MUSEUM

Sections:

- 2.28.010 Museum.
- 2.28.015 Board.
- 2.28.020 Museum board of trustees.
- 2.28.030 Board – Duties.
- 2.28.040 Board – Meetings.
- 2.28.050 Board – Officers.
- 2.28.060 Entry fee.

* Prior ordinance history: Ord. 301.

2.28.010 Museum.

The city’s public museum of natural and historical objects shall be administered as set forth in this chapter. (Ord. 735 (part), 1992)

2.28.015 Board.

The museum board of the city shall hereafter be established as set forth in this chapter. (Ord. 735 (part), 1992)

2.28.020 Museum board of trustees.

A. The museum board of trustees shall consist of seven members.

B. Members of the museum board of trustees shall be appointed by the mayor, subject to the approval of three city council members including the mayor.

C. Term of Office. Members of the museum board of trustees shall serve three-year terms. The terms of the museum board of trustees shall be staggered with three members serving a coextensive term and the other four members serving another coextensive term. Terms shall expire on the second Thursday of June in the year of term expiration.

D. Members of the museum board of trustees shall serve at the pleasure of the city council, and therefore may be removed from office, without cause, and at any time, by the affirmative vote of three city council members. Where a vacancy arises in the board membership prior to a term expiration, the mayor may appoint a person to fill that vacancy for the remainder of the unexpired term in accordance with this section.

E. The city council may, by resolution, establish a recruitment process for individuals who may wish to apply for appointment to the museum board of trustees. (Ord. 836 § 2, 2002)

2.28.030 Board – Duties.

The duties of the board are:

A. To advise the city council and the city manager on the following and related items: financial affairs of the museum; general museum administration; formulation of long term museum plans; formulation of written policies for acquisition by the city of museum objects; and steps that can be taken to bring about a better understanding and appreciation by the Capitola community of its history, architecture, culture, technology, and its creative and natural environment through the promotion of the city’s museum and allied projects;

B. To establish the ethical standards of the Capitola Historical Museum for collecting;

C. To monitor museum finances;

D. To serve as trustees of any trust formed to receive and disburse funds collected solely for museum purposes;

E. To prepare reports, if any, which are appropriate under Government Code Section 37557;

F. To accept donations of museum objects and receive museum objects on loan;

G. To recruit and supervise volunteers. (Ord. 735 (part), 1992)

2.28.040 Board – Meetings.

The board of trustees shall meet in accord with the Brown Act and the board’s bylaws. (Ord. 735 (part), 1992)

2.28.050 Board – Officers.

The board shall elect a president, vice-president, secretary and treasurer. Officers shall serve one year and until successors are elected. In the absence of the president, the vice-president shall act as president pro tem. (Ord. 735 (part), 1992)

2.28.060 Entry fee.

Subject to the rules and regulations of the board, the museum shall be free to the inhabitants and nonresident taxpayers of the city. (Ord. 735 (part), 1992)

Chapter 2.32

PEACE OFFICER TRAINING

Sections:

2.32.010 Qualification.

2.32.020 Standards adherence.

2.32.010 Qualification.

The city declares that it desires to qualify to receive aid from the state under the provisions of Chapter 1 of Title 4, Part 4 of the Penal Code. (Ord. 291 § 1, 1967)

2.32.020 Standards adherence.

Pursuant to Section 13522 of Chapter 1 of the Penal Code, the city while receiving aid from the state pursuant to said Chapter 1 will adhere to the standards for recruitment and training established by the California Commission on Peace Officers Standards and Training. (Ord. 291 § 2, 1967)

Chapter 2.40

UNCLAIMED PROPERTY

Sections:

- 2.40.010 Return to owner.
- 2.40.020 Sale at auction.
- 2.40.030 Destruction when no bids received.

2.40.010 Return to owner.

All personal property coming into the possession of the police department, by under and through the exercise of the proper duties and functions of the police department shall be returned to and delivered to the rightful owners thereof upon presentation of proof of identity and right of possession and ownership. (Ord. 92 § 1, 1955)

2.40.020 Sale at auction.

All unclaimed personal property coming into the possession of the police department shall from and after the effective date of the ordinance codified in this chapter be dealt with in the following manner:

- A. Such unclaimed property shall be held in the possession of the police department for a period of not less than six months;
- B. On or after the expiration of six months such property shall be sold at public auction to the highest bidder; and
- C. Notice of such sale shall be given by the chief of police of the police department at least five days before the time fixed for such sale by publication once in a newspaper of general circulation published in the county. Such notice shall specify the date, hour and place at which such sale shall be conducted. At such sale the chief of police shall deliver possession of such property to the highest bidder therefor and shall receive the sum so paid and issue his or her receipt therefor. All moneys so received shall be paid to the treasurer of the city.

D. Notwithstanding the foregoing, property with a value, estimated by the chief of police, to be not in excess of five hundred dollars may be sold at other than auction in the following circumstances:

- 1. If the property is of a variety which either cannot be legally sold to the general public, or there are public policy reasons for not doing so, or
- 2. The expenses of conducting the auction would exceed the probable return.

In such cases property may be sold or exchanged to prospective purchasers who, in the determination of the chief of police, are likely to pay as much for the property as could be expected through reasonable alternative procedures. Such property may not, however, be sold to any city employee or spouse, child, or parent of a city employee. (Ord. 633 § 1, 1987; Ord. 92 § 2, 1955)

2.40.030 Destruction when no bids received.

In the event that property is not disposed of pursuant to the proceeding section, then the chief of police is authorized and directed to destroy such property. (Ord. 633 § 2, 1987; Ord. 92 § 3, 1955)

Chapter 2.44
PERSONNEL SYSTEM

Sections:

- 2.44.010 Adopted.
- 2.44.020 Definitions.
- 2.44.030 Personnel officer.
- 2.44.040 *Repealed.*
- 2.44.050 *Repealed.*
- 2.44.060 Exempted employees.
- 2.44.062 Exempted officials.
- 2.44.070 Rules adoption and amendment.
- 2.44.080 Appointments.
- 2.44.090 Probationary period.
- 2.44.100 Continuation of employment.
- 2.44.110 *Repealed.*
- 2.44.120 Disciplinary action.
- 2.44.130 Appeal.
- 2.44.140 Layoff and reemployment.
- 2.44.150 Political activity.
- 2.44.160 Discrimination prohibited.
- 2.44.170 Right to contract for special service.
- 2.44.180 Effective date.
- 2.44.190 No conflict with federal or state law.
- 2.44.200 Preemption.

2.44.010 Adopted.

In order to establish an equitable and uniform procedure for dealing with personnel matters, to attract to municipal service the best and most competent persons available, to assure that appointments and promotions of employees will be based on merit and fitness, and to provide a reasonable degree of security for qualified employees, the personnel system set forth in this chapter is adopted. (Ord. 988 § 1 (part), 2014: Ord. 381 § 1, 1974)

2.44.020 Definitions.

As used in this chapter, the following terms shall be defined as indicated:

- A. “Appointing authority” means the city manager, who is the appointing authority of employees in the competitive service; provided, however, the city manager may delegate in writing the appointing authority to any department head.
- B. “Class” means all positions sufficiently similar in duties, authority, and responsibility to permit grouping under a common title in the application with equity of common standards of selection, transfer, demotion and salary.
- C. “Competitive service” means all positions of employment in the service of the city except those specifically excluded by this chapter.
- D. “Days” means calendar days unless otherwise stated.
- E. “Demotion” means the movement of an employee from one class to another class having a lower maximum rate of pay.
- F. “Employment list” means a list of names of persons who may be considered for employment with the city under specified conditions.
- G. “Examination” means selection techniques used to measure the relative capacities of the persons applying for positions within the competitive service.

H. “Layoff” means the separation of employees from the active workforce due to lack of work or funds, or to the abolition of positions by the city council for the above reasons, or due to organizational changes.

I. “Position” means a group of duties and responsibilities in the competitive service requiring the full-time or part-time employment of one person.

J. “Probationary period” means a working test period during which an employee is required to demonstrate his or her fitness for the position to which he or she is appointed by actual performance of the duties of the position.

K. “Promotion” means the movement of an employee from one class to another class having a higher maximum rate of pay.

L. “Provisional appointment” means an appointment of a person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in that class in the absence of available eligibles.

M. “Reinstatement” means the reemployment without examination of a former regular employee or probationary employee.

N. “Suspension” means the temporary separation from the service of an employee without pay, for disciplinary purposes.

O. “Transfer” means a change of an employee from one position to another position in the same class or in a comparable class.

P. “Regular” means a position in the competitive service that is, regardless of the number of hours worked per week, intended to be continuous and uninterrupted (except for authorized or unpaid leave) and receives benefits. Positions intended to be seasonal, of a limited term, on call only, emergency, intermittent, substitute or on any other irregular basis are not “regular.” (Ord. 988 § 1 (part), 2014; Ord. 829 § 1, 2001; Ord. 381 § 2, 1974)

2.44.030 Personnel officer.

The city manager shall be the personnel officer. The city manager may delegate any of the powers and duties conferred upon him or her as personnel officer under this chapter to any other officer or employee of the city or may recommend that such powers and duties be performed under contract as provided in Section 2.44.170. The personnel officer shall:

- A. Act as the appointing authority for the city;
- B. Administer all the provisions of this chapter and of the personnel rules not specifically reserved to the city council;
- C. Prepare and recommend to the city council personnel rules and revisions and amendments to such rules;
- D. Prepare or cause to be prepared a position classification plan, including class specifications, and revisions of the plan. The plan, and any revisions thereof, shall become effective upon approval by the city council;
- E. Have the authority to discipline employees in accordance with this chapter and the personnel rules of the city;
- F. Provide for the publishing or posting of notices of tests for positions in the competitive service, the receiving of applications therefor, the conducting and grading of tests, and the certification of a list of all persons eligible for appointment to the appropriate position in the competitive service. (Ord. 988 § 1 (part), 2014; Ord. 381 § 3, 1974)

2.44.040 Personnel board – Designated.

Repealed by Ord. 988. (Ord. 381 § 4, 1974)

2.44.050 Personnel board – Duties.

Repealed by Ord. 988. (Ord. 381 § 5, 1974)

2.44.060 Exempted employees.

The provisions of this chapter apply to all employees in the service of the city, except:

- A. The city manager and any assistant city manager;
- B. Any department head, including the chief of police, whose first date of employment is July 1, 2001, or after;
- C. Emergency employees who are hired to meet the immediate requirements of an emergency condition, such as fire, flood, or earthquake;
- D. Employees who are not “regular” (as defined in Section 2.44.020(P)) employees. (Ord. 988 § 1 (part), 2014; Ord. 829 § 2, 2001; Ord. 381 § 6, 1974)

2.44.062 Exempted officials.

The provisions of this chapter do not apply to any of the following:

- A. Elective officers;
- B. Members of appointive boards, commissions, and committees;
- C. Persons engaged under contract to supply expert, professional, technical or any other services;
- D. Volunteer personnel;
- E. City attorney, whether or not he or she is an employee. (Ord. 988 § 1 (part), 2014; Ord 829 § 3, 2001)

2.44.070 Rules adoption and amendment.

Personnel rules shall be adopted by resolution of the city council after notice of such action has been publicly posted in at least three public places designated by the city council, and at least five days prior to city council consideration. The personnel officer shall give reasonable written notice to each recognized employee organization affected by the ordinance, rule, resolution or regulation or amendment thereof proposed to be adopted by the city council. Amendments and revisions may be suggested by any interested party and shall be processed as provided in the personnel rules. The rules shall establish regulations governing the personnel system including:

- A. Preparation, installation, revision and maintenance of a position classification plan covering all positions in the competitive service, including employment standards and qualifications for each class;
- B. Public announcement of all tests and acceptance of applications for employment;
- C. Preparation and conduct of tests and the establishment and use of resulting employment lists containing names of persons eligible for appointment;
- D. Certification and appointment of persons from employment lists and the making of provisional appointments;
- E. Establishment of probationary periods;
- F. Evaluation of employees during the probationary period;
- G. Transfer, promotion, demotion, reinstatement, disciplinary action and layoff of employees in the competitive service;
- H. Separation of employees from the city service;
- I. The establishment of adequate personnel records;
- J. The establishment of appeal procedures concerning the interpretation of application of this chapter and any rules adopted under this chapter. (Ord. 988 § 1 (part), 2014; Ord. 381 § 7, 1974)

2.44.080 Appointments.

Appointments to vacant positions in the competitive service shall be made in accordance with the personnel rules. Appointments and promotions shall be based on merit and fitness to be ascertained so far as practicable by competitive examination. Examinations may be used and conducted to aid in the selection of qualified employees and shall consist of selection techniques which will test fairly the qualifications of candidates such as achievement and aptitude tests, written tests, personal interview, performance tests, physical agility tests, evaluation of daily work performance, work samples or any combinations of these or other tests. The probationary period shall be considered an extension of the examination process. Physical and medical tests may be given as a part of any examination.

In any examination the personnel officer may include, in addition to competitive tests, a qualifying test or tests and set minimum standards therefor. (Ord. 988 § 1 (part), 2014; Ord. 381 § 8, 1974)

2.44.090 Probationary period.

All regular appointments, including promotional appointments, shall be for a probationary period of not less than six months. Appointments to public safety positions will ordinarily be twelve months. That period may be reduced (but not below six months) if the chief of police so recommends and the city manager approves. Such a recommendation should only be made after the chief has had ample opportunity to evaluate the officer. During the probationary period, the employee may be rejected at any time without the right of appeal or hearing. An employee rejected during the probationary period from a position to which he or she has been promoted shall be reinstated to a position in the class from which he or she was promoted unless he or she is discharged from the city service as provided in this chapter and the rules.

An employee in the competitive service promoted or transferred to a position not included in the competitive service shall be reinstated to a position in the class from which he or she was promoted or transferred if action is taken to reject him or her unless he or she is discharged in the manner provided in this chapter and the personnel rules for positions in the competitive service. (Ord. 988 § 1 (part), 2014; Ord. 831, 2001; Ord. 381 § 9, 1974)

2.44.100 Continuation of employment.

Any person holding a position included in the competitive service who, on the effective date of the ordinance codified in this chapter, has served continuously in such position, or in some other position in the competitive service, for a period equal to the probationary period prescribed in the rules for his or her class, shall assume regular status in the competitive service in the position held on such effective date without qualifying test, and shall thereafter be subject in all respects to the provisions of this chapter and the personnel rules. Any other person holding positions in the competitive service shall be regarded as probationers who are serving out the balance of their probationary periods as prescribed in the rules before obtaining regular status. The probationary period shall be computed from the date of appointment or employment. (Ord. 988 § 1 (part), 2014; Ord. 381 § 10, 1974)

2.44.110 Attendance and leaves for full-time exempt positions.

Repealed by Ord. 988. (Ord. 381 § 11, 1974)

2.44.120 Disciplinary action.

The appointing authority shall have the right, for due cause, to demote, dismiss, reprimand, reduce in pay, or suspend without pay any regular non-sworn employee in accordance with procedures included in the personnel rules.

Notwithstanding any provision in this rule to the contrary, public safety personnel in the police department are subject to provisions of the Public Safety Officers Procedural Bill of Rights (POBR), as set forth in Government Code Section 3300 et seq., and wherever any provisions of these rules and regulations conflict with provisions of the POBR, the provisions of the POBR shall prevail.

The provisions of this section shall not apply to reductions in pay which are a part of a general plan to reduce salaries and wages or to eliminate positions. (Ord. 988 § 1 (part), 2014; Ord. 381 § 12, 1974)

2.44.130 Appeal.

Any employee in the competitive service shall have the right to appeal any disciplinary action, or alleged violation of this chapter, except in those instances where the right of appeal is specifically prohibited by this chapter or the rules adopted under this chapter or the personnel rules.

All appeals shall be concluded as expeditiously as possible and in accordance with the requirements and procedures as set forth in the personnel rules and regulations adopted pursuant to this chapter. (Ord. 988 § 1 (part), 2014; Ord. 381 § 13, 1974)

2.44.140 Layoff and reemployment.

Whenever in the judgment of the city council or the appointing authority it becomes necessary in the interest of economy, or because the necessity for a position no longer exists, the city council or the appointing authority may abolish any position or employment in the competitive service; and the employee holding such position for employment may be laid off without taking disciplinary action.

The order of layoff of employees shall follow the process outlined in the personnel rules adopted pursuant to this chapter. (Ord. 988 § 1 (part), 2014; Ord. 381 § 14, 1974)

2.44.150 Political activity.

The political activities of city employees shall conform to pertinent provisions of state and federal law. (Ord. 988 § 1 (part), 2014; Ord. 381 § 15, 1974)

2.44.160 Discrimination prohibited.

No person in the competitive service, or seeking admission thereto, shall be employed, promoted, demoted or discharged, or in any way favored or discriminated against, because of political opinions or affiliations, race, color, ancestry, national origin, religious creed, sex, age, sexual orientation, or gender identity or because of the exercise of his or her rights under Section 3502 of the Government Code. (Ord. 988 § 1 (part), 2014; Ord. 381 § 16, 1974)

2.44.170 Right to contract for special service.

The city manager shall consider and make recommendations to the city council regarding the extent to which the city should contract for the performance of technical services in connection with the establishment or operation of the personnel system. The city council may contract with any qualified person or public or private agency for the performance of all or any of the following responsibilities and duties imposed by this chapter:

- A. The preparation of personnel rules and subsequent revisions and amendments thereof;
- B. The preparation of a position classification plan, and subsequent revisions and amendments thereof;
- C. The preparation, conduct and grading of competitive tests;
- D. The conduct of employee training programs;
- E. Special and technical services of advisory or informational character on matters relating to personnel administration. (Ord. 988 § 1 (part), 2014; Ord. 381 § 17, 1974)

2.44.180 Effective date.

The ordinance codified in this chapter shall become effective immediately after the date of final passage by the city of Capitola city council. (Ord. 988 § 1 (part), 2014)

2.44.190 No conflict with federal or state law.

Nothing in this chapter shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law. (Ord. 988 § 1 (part), 2014)

2.44.200 Preemption.

The provisions of this chapter shall be null and void if state or federal legislation, or administrative regulation, takes effect with the same or substantially similar provisions as contained in this chapter. The city council shall determine whether or not identical or substantially similar statewide legislation has been enacted or regulations issued. (Ord. 988 § 1 (part), 2014)

Chapter 2.48
RETIREMENT SYSTEM

Sections:

2.48.010 P.E.R.S. participation.

2.48.010 P.E.R.S. participation.

The city shall continue to participate in the Public Employees' Retirement System on such terms and conditions as are embodied in the city's contract with P.E.R.S. together with any applicable provisions and individual contracts of employment or memorandums of understanding. (Ord. 828 § 1, 2001; Ord. 334 § 1, 1970)

Chapter 2.52

APPEALS TO CITY COUNCIL

Sections:

- 2.52.010 Applicability of chapter.
- 2.52.020 Time and form of appeal.
- 2.52.030 Setting of the hearing date.
- 2.52.040 Standing to appeal.
- 2.52.050 Conduct of the hearing.
- 2.52.060 Findings.

2.52.010 Applicability of chapter.

Except when a different procedure is otherwise expressly provided by this code, all appeals to the city council from a decision of any city employee, board, or commission shall be conducted as set out in this chapter. (Ord. 519 (part), 1982)

2.52.020 Time and form of appeal.

All appeals shall be made in writing and delivered to the office of the city clerk with payment of the fee established by resolution. Such appeals shall be made within ten working days from the time of the decision that is the subject of the appeal, except that when neither the applicant nor the applicant's representative has been present at the meeting in which the decision was rendered, the appeal time shall be fourteen working days from the date the staff mails to the applicant a notice of the decision. The request for appeal shall set forth the appellant's name, the phone number for the appellant, an address to which notices may be sent to the appellant and the grounds upon which the appeal is made. (Ord. 1038 § 1 (part), 2020; Ord. 845 § 1, 2003; Ord. 519 (part), 1982)

2.52.030 Setting of the hearing date.

The city staff can either set the hearing for the next city council meeting or shall, at the next city council meeting, request the city council to set the time and place of hearing. (Ord. 519 (part), 1982)

2.52.040 Standing to appeal.

The council may refuse to hear an appeal by a person whom the council determines does not have a significant interest in the matter. In land use matters, any citizen of Capitola or any property owner likely to be affected by the decision, shall be deemed to have a significant interest. (Ord. 519 (part), 1982)

2.52.050 Conduct of the hearing.

The hearing shall be de novo. The appellant's presentation shall be limited to issues raised in the request for appeal and to reasonable rebuttal. The ordinary order of presentation is as follows: staff report; appellant; real property in interest, if any; public comment; appellant's rebuttal; rebuttal by real party in interest, if any; council consideration. The presiding officer may set forth any reasonable time limits for any presentation, and may change these procedures, in his or her discretion. (Ord. 1038 § 1 (part), 2020; Ord. 519 (part), 1982)

2.52.060 Findings.

Findings may either be made by the city council at the time of the hearing or the council may direct the city staff to bring back findings for later council determination. The council may render a final decision, notwithstanding that the findings may be rendered at a later time. (Ord. 519 (part), 1982)

Chapter 2.56

ART AND CULTURAL COMMISSION

Sections:

- 2.56.010 Created.
- 2.56.020 Appointment.
- 2.56.030 Terms of office.
- 2.56.040 Officers, meetings, and procedures.
- 2.56.050 Duties.
- 2.56.060 Definitions.

2.56.010 Created.

The city shall continue to have an art and cultural commission. The art and cultural commission shall consist of nine members as follows:

- A. One city council member;
- B. One planning commissioner;
- C. One artist or arts organization representative member;
- D. One arts professional member;
- E. Five at-large members. (Ord. 944 § 1, 2010; Ord. 851 § 1, 2003)

2.56.020 Appointment.

The council member and planning commissioner appointees shall be selected by a majority vote of their respective boards. The artist or arts organization representative, arts professional, and the at-large appointees shall be appointed to the art and cultural commission by a majority vote of the city council. (Ord. 851 § 1, 2003)

2.56.030 Terms of office.

The art and cultural commissioners shall serve two-year terms. With the addition of two at-large member positions in 2010, one will expire on December 31, 2010, and one will expire on December 31, 2011, in order that there are two at-large member positions expiring in 2010, and three at-large member positions expiring in 2011. (Ord. 944 § 1, 2010; Ord. 851 § 1, 2003)

2.56.040 Officers, meetings, and procedures.

A. Chairperson and Vice Chairperson. As soon as practicable, following the first day of January of each year, the art and cultural commission shall select one of its members as chairperson and one of its members as vice-chairperson. The chairperson and vice chairperson shall serve a term of one year, or until a successor is elected.

B. Committees. The art and cultural commission shall designate specific committees as follows: public art, volunteers, fundraising, marketing, and any other committee as necessary. Committees shall be composed of no fewer than two and no more than three commissioners. The committees may also include nonvoting volunteer members as deemed necessary by the art and cultural commission. The committees shall report to the art and cultural commission on no less than a quarterly basis.

C. Artist Selection Panels. The art and cultural commission may establish an artist selection panel, as defined in the art and cultural master plan, to select works of art for recommendation to the city council.

D. Meetings. The art and cultural commission shall hold a regular meeting at least once each month.

E. Procedures. Procedures for the conduct of the business of the art and cultural commission, not specified in the ordinance establishing the art and cultural commission's authority, shall be set forth in bylaws, forms, applications, rules, and regulations adopted by the art and cultural commission for the conduct of its business subject to approval

of the city council. All meetings of the art and cultural commission shall be open to the public and are subject to Title 5, Division 2, Part 1, Chapter 9 of the California Government Code or successor legislation. The decisions of the art and cultural commission shall be transmitted to the city manager and to such other body or bodies which have jurisdiction to review projects under consideration. If more than one board or commission has jurisdiction over a matter decided by the art and cultural commission, the first to consider it shall refer it to the others. (Ord. 851 § 1, 2003)

2.56.050 Duties.

The art and cultural commission shall have the following duties and responsibilities:

- A. Advise the city council as to the allocation of public funds for the support and encouragement of existing and new programs in the arts, and for the acquisition by purchase, gift, or otherwise, of works of art;
- B. Subject to city council approval, initiate, sponsor, or direct special programs which will enhance the cultural climate of the city;
- C. Establish close liaison with other commissions and civic organizations in order to foster public interest in the arts;
- D. Advise the city council concerning the interpretation and implementation of the city's established policies and practices, including the art and cultural master plan, as they relate to the art and cultural commission's objectives;
- E. In February of each year, prepare for city council review an assessment of the art and cultural commission's goals, plans and objectives from the prior fiscal year and recommend for council approval the art and cultural commission's goals, plans, and objectives for the next fiscal year;
- F. Perform such other functions and duties as may be directed by the city council. (Ord. 851 § 1, 2003)

2.56.060 Definitions.

“Work of art” means, for the purposes of this chapter, any work of visual art, including, but not limited to, drawing, painting, mural, fresco, sculpture, mosaic, decoration, inscription, stained glass, monument, calligraphy, photography, graphic art, crafts, mixed media, electronic art, media art, an artistic or aesthetic element of the project architecture or landscape architecture if created by an artist or artist team, or any other element recommended by the art and cultural commission. The term “work of art” may also include functional elements of capital improvement projects, such as benches, gates, lighting, and landscaping if such elements are designed by a professional artist. (Ord. 851 § 1, 2003)

Chapter 2.58
FUNDING THE PUBLIC ART PROGRAM

Sections:

- 2.58.010 Purpose.
- 2.58.020 Definitions.
- 2.58.030 Public art account.
- 2.58.040 Applicability.
- 2.58.050 Funds for public art.
- 2.58.060 Funding exclusions from, and additions to, the public art program.
- 2.58.070 Application procedures for placement of required public art on private nonresidential property.
- 2.58.080 Approval for placement of public art on private nonresidential property.
- 2.58.090 Application procedure for acceptance of public art donated to the city.
- 2.58.100 Review of application for acceptance of public art donated to the city.
- 2.58.110 Certificate of occupancy.
- 2.58.120 Ownership of public art on private nonresidential property.
- 2.58.130 Removal or alteration of public art.
- 2.58.140 Program administration.

2.58.010 Purpose.

The city of Capitola wishes to enhance the cultural and aesthetic environment of the city, to encourage creativity, the appreciation of the arts and our cultural heritage. Through the establishment of a program of public art funded by private development, the city will promote the general welfare through balancing the community’s physical growth and revitalization with its cultural and artistic resources. (Ord. 869 § 1, 2004)

2.58.020 Definitions.

- A. “Acquisition” means the acquirement of works of art by donation, purchase or commission.
- B. “Public place” means city or privately owned land or buildings which are open to the general public on a regular basis.
- C. “Eligible public construction project” means any capital improvement project of the city involving a public place as identified in the annual capital improvement budget of the city and which is paid for wholly or in part by city funds, nonresidential development project which exceeds a total building permit valuation of two hundred fifty thousand dollars as calculated by the city of Capitola building permit application.

EXCEPTION: “Eligible construction project” shall not include capital improvement projects for which the sources of funds are limited to a specified purpose, or for which the terms of a contract, federal or state grant, law, or regulation prohibit or restrict the expenditure of funds on works of art. However, it shall be the policy of the city that all city departments shall, from the effective date of this ordinance, include a request for public art funding in all grant applications or other funding support requests for capital improvement projects to any outside funding agencies.
- D. “Eligible private construction project” means and includes any private nonresidential redevelopment project with a total building permit valuation of two hundred fifty thousand dollars or more as calculated by the city of Capitola building permit application.

EXCEPTION: “Eligible private construction project” shall not include projects which consist only of heating, ventilation, air-conditioning, reroofing, cosmetic work that does not affect items regulated by the model building codes, and equipment not considered to be part of the architecture of the building or area.

E. Professional Artist or Artwork. It is the policy of the art and cultural commission that all artworks commissioned or acquired under the public art plan be designed by professional visual artists. A “professional artist” is a person who has established a reputation of artistic excellence, as judged by peers, through a record of exhibitions, public commissions, sale of works, or educational attainment.

F. Artwork may include, but is not limited to, the following:

1. Sculpture: free-standing, wall supported or suspended; kinetic, electronic; in any material or combination of materials.
2. Murals or portable paintings: in any material or variety of materials, with or without collage or addition of nontraditional materials or means.
3. Earthworks, fiber works, neon glass mosaics, photographs, prints, calligraphy, any combination of forms of media including sound, literary elements, film holographic images, and video systems; hybrids of any media and new genres.
4. Furnishings or fixtures, including but not limited to gates, railings, streetlights, signs, seating, if artist-created as unique elements or limited editions.
5. Artistic or aesthetic elements of the overall architecture or landscape design if created by a professional artist or a design team that includes a professional visual artist.
6. Temporary artworks or installations, as such artworks serve the purpose of providing community and educational outreach.
7. The incremental costs of infrastructure elements, such as sound walls, utility structures, roadway elements and other items if designed by an artist or design team that included an artist as a co-designer.

Ineligible artworks:

1. Art objects which are mass produced or of standard manufacture, such as playground equipment, fountains or statuary elements, unless incorporated into an artwork by a project artist.
2. Reproductions, by mechanical or other means, of original works of art, except in cases of film, video, photography, printmaking or other media arts.
3. Decorative, ornamental, architectural or functional elements which are designed by the building architect, as opposed to the elements created by an artist commissioned for that purpose.
4. Landscape architecture and landscape gardening except where these elements are designed by a professional visual artist and/or are an integral part of the artwork.
5. Services or utilities necessary to operate and maintain an artwork over time.

G. "Total construction cost," as used in this chapter, means the valuation of the proposed structures or improvements, as calculated by the city of Capitola building permit application.

H. "Nonresidential development" means the construction of commercial, residential/ commercial, office, industrial projects or other projects which are not intended for residential purposes.

I. "Artist selection panel" means an ad-hoc committee formed and charged by the art and cultural commission for a limited period of time to recommend artists for individual projects or groups of projects. (Ord. 892 § 1, 2005; Ord. 869 § 1, 2004)

2.58.030 Public art account.

There shall be a noninterest-bearing account designated for public art, into which shall be deposited all fees paid pursuant to this chapter. This account shall be maintained by the city finance director and shall only be used for the acquisition, installation, and improvement (see Program Administration Section 2.58.140) of public art in the city. (Ord. 869 § 1, 2004)

2.58.040 Applicability.

The program described in this chapter is a mandatory program, and the standards specified are minimum standards for compliance.

A. This chapter shall apply to all eligible public and private construction projects as defined by this ordinance having a total construction cost of two hundred and fifty thousand dollars or more, as calculated by the city of Capitola building permit application. The obligation to comply with this chapter shall not be evaded by performing a series of small construction projects if the project could have been performed as a single construction project with in a three-year period.

B. This chapter shall apply to all expansion of, remodeling of, or tenant improvements to existing eligible buildings when any such work has a total construction cost of two hundred fifty thousand dollars or more, as calculated by the city of Capitola building permit application. (Ord. 892 § 2, 2005; Ord. 869 § 1, 2004)

2.58.050 Funds for public art.

A. Private Project Applicant. The project applicant shall acquire and install public art recommended by an art selection panel, with review by the art and cultural commission and approval of the city council, in a public place on or in the vicinity of the development project site. The minimum cost of the public art, including installation, shall be determined by the following:

1. After the effective date of this chapter, if a private developer makes application for a permit to develop a nonresidential project with a total building permit valuation of at least two hundred fifty thousand dollars, excluding land acquisition, not less than two percent of the project budget shall be set aside for the acquisition of art for incorporation into the project or for placement in the general vicinity of the project.
2. The private developer may, with city council approval, in lieu of incorporating public art in their project, deposit an amount equal to one percent of the total building permit valuation with the city, to be used for public art elsewhere in the city. Deposits of funds for public art from the private developer or for the in-lieu payment shall be made to the city prior to the issuance of a building permit for the project.

B. City Projects.

1. The city council shall provide in the annual capital improvement budget for an amount of not less than two percent of the total amount budgeted for each “eligible construction project” to be set aside and identified as sources of funds to be appropriated and expended for acquisition of works of art in accordance with this section. Appropriations for purposes of acquiring works of art in order to carry out the provisions of this chapter shall be made in accordance with law and the budgeting procedures of the city.
2. Appropriations for works of art may be expended to acquire works of art for any public place if the terms of a contract, federal or state grant, law or regulation do not limit or restrict the funds so appropriated to use for a specific “eligible public or private construction project.” Appropriations for works of art shall only be expended for acquisition of works of art to be located on the premises of a specific “eligible public or private construction project” if the terms of a contract, federal or state grant, law, or regulation do limit or restrict the use of funds to a specific “eligible construction project” only.
3. Subject to applicable law, appropriations and expenditures for works of art may include, but are not limited to, the costs and expenses incurred in the process of selecting and installing works of public art and for design and planning services of artists, as well as program administration and project management.
4. The city council shall approve the acquisition of works of art to be funded under the capital improvement budget.
5. All artwork donated to the city shall become the property and responsibility of the city upon acceptance of the city council.
6. Other Public Agencies. If the city enters into an agreement with another public agency, whereby city or agency funds are transferred to such agency for the purpose of performing a capital improvement project which

would otherwise be deemed an “eligible construction project” under this chapter, such agreement shall provide, whenever it is lawful or appropriate to do so, that the recipient agency or its successor in interest shall take appropriate measures to insure that not less than two percent of the city or agency funds so transferred are expended for acquisition of works of art. (Ord. 892 § 3, 2005; Ord. 869 § 1, 2004)

2.58.060 Funding exclusions from, and additions to, the public art program.

City manager responsibilities:

A. The city manager, in conjunction with the submission of the annual capital budgets of the city, and unless otherwise prohibited by law from doing so, may:

1. Propose funds to be added to the public art program, which funds may be utilized to place works of art in existing public places which do not otherwise qualify as “eligible public construction projects.”
2. Prior to the submission of the city’s proposed annual capital improvement project budget to the city council, the city manager shall notify the art and cultural commission of: (i) those capital improvement projects which are designated “eligible public construction projects” in the budget; and (ii) any proposed discretionary funds proposed for addition to the public art program.
3. The following provisions shall apply to the two percent minimum public art calculation only in those circumstances in which the city receives funds from persons, firms, organizations or other agencies which are restricted as to the use of such funds for works of art, or which such funds are otherwise restricted by law or regulation:
 - a. If the terms of a contract, federal or state grant, law or regulation prohibit the use of funds in connection with an “eligible public construction project” for expenditure upon works of art, then the basis on which the public art funding percentage is applied will exclude any funds which are so prohibited or restricted.
 - b. If the terms of a contract, federal or state grant, law or regulation provide that any additional expenditure by the city on works of art for an otherwise “eligible public construction project” shall reduce the amount of funds received by the city for the project, then the project may be wholly or partially exempted from the provisions of this chapter. (Ord. 892 § 3, (part), 2005; Ord. 869 § 1 (part), 2004)

2.58.070 Application procedures for placement of required public art on private nonresidential property.

An application for placement of public art on private nonresidential property shall be submitted to the community development director and shall include:

- A. Preliminary sketches, photographs or other documentation of sufficient descriptive clarity to indicate the nature of the proposed public art;
- B. An appraisal or other evidence of the value of the proposed public artwork, including acquisition and installation costs;
- C. Preliminary plans containing such detailed information as may be required the art and cultural commission to adequately evaluate the location of the artwork in relation to the proposed development and its compatibility to the proposed development, including compatibility with the character of adjacent conforming developed parcels and existing neighborhoods;
- D. A narrative statement to be submitted to the community development director to demonstrate that the public art will be displayed in an area open and freely available to the general public, or that public accessibility will be provided in an equivalent manner based on the characteristics of the artwork or its placement on the site. (Ord. 869 § 1, 2004)

2.58.080 Approval for placement of public art on private nonresidential property.

A. Applications completed in accordance with Section 2.58.070 shall be submitted to the art and cultural commission for review and recommendation to the city council of public art in accordance with this chapter.

B. The art and cultural commission upon receipt of a completed application shall convene an art selection panel to review the proposed public art using adopted public art evaluation criteria.

C. The recommended completed application shall be forwarded by the art and cultural commission to the city council, which shall have the sole authority to accept, reject or conditionally accept the project.

D. All approvals for placement of public art on private property shall be obtained prior issuance of a certificate of occupancy. (Ord. 892 § 4, 2005; Ord. 869 § 1, 2004)

2.58.090 Application procedure for acceptance of public art donated to the city.

An application for the donation of public art to the city shall be submitted to the art and cultural commission and shall include:

A. Preliminary sketches, photographs, models or other documentation of sufficient descriptive clarity to indicate the nature of the proposed public art;

B. An appraisal or other evidence of the value of the proposed public art, including acquisition and installation costs;

C. A written agreement executed by or on behalf of the artist who created the public art which expressly waives his or her rights under the California Art Preservation Act or other applicable law;

D. Other information as may be required by the art and cultural commission to adequately evaluate the proposed donation of public art. (Ord. 869 § 1, 2004)

2.58.100 Review of application for acceptance of public art donated to the city.

A. The art and cultural commission shall convene an art selection panel to review the proposed public art, using adopted public art evaluation criteria.

B. Upon recommendation of the art selection panel, the public art application shall be reviewed by the art and cultural commission.

C. Following the review, the art and cultural commission shall forward the public art application to the city council, which shall have the sole authority to accept, reject or conditionally accept the donation. (Ord. 869 § 1, 2004)

2.58.110 Certificate of occupancy.

The following requirements must be met prior to the city's issuance of a certificate of occupancy:

A. Full compliance with one of the following:

1. The approved public art has been placed on the site of the approved project, in a manner satisfactory to the building official and the Capitola art and cultural commission; or

2. In-lieu art fees have been paid.

B. If public art has been placed on the site of the approved project, the applicant must execute and record with the county recorder covenants, conditions and restrictions (CC&Rs), which require the property owner, successor in interest and assigns to:

1. Maintain the public art in good condition as required by the city's public art guidelines;

2. Indemnify, defend and hold the city and related parties harmless from any and all claims or liabilities from the public art, in a form acceptable to the city attorney;

3. Maintain liability insurance, including coverage and limits as may be specified by the city manager. (Ord. 892 § 5, 2005; Ord. 869 § 1, 2004)

2.58.120 Ownership of public art on private nonresidential property.

A. All public art placed on the site of an applicant's project shall remain the property of the applicant; the obligation to provide all maintenance necessary to preserve the public art in good condition shall remain with the owner of the site.

B. Maintenance of public art, as used in this chapter, shall include without limitation, preservation of the artwork in good condition to the satisfaction of the city, protection of the public art against physical defacement, mutilation or alteration, and securing and maintaining fire and extended coverage insurance and vandalism coverage in an amount to be determined by the city manager. Prior to placement of approved public art, applicant and owner of the site shall execute and record a covenant, in a form approved by the city, requiring maintenance of the public art. Failure to maintain the public art as provided in this chapter is declared to be a public nuisance.

C. In addition to all other remedies provided by law, in the event the owner fails to maintain the public art, upon reasonable notice the city may perform all necessary repairs and maintenance or secure insurance, and the costs therefore shall become a lien against the real property.

D. All artwork donated to the city shall become the property and responsibility of the city upon acceptance by the city council. (Ord. 869 § 1, 2004)

2.58.130 Removal or alteration of public art.

A. Public art installed on or integrated into a construction project pursuant to the provisions of this chapter shall not be removed or altered without the approval of the city council.

B. If any public art provided on a development project pursuant to the provisions of this chapter is knowingly removed by the property owner without prior approval, the property owner shall contribute funds equal to the development project's original public art requirement to the city's public art in-lieu account, or replace the removed artwork with one which is of comparable value and approved by the city council. If this requirement is not met, the occupancy permit for the project may be revoked by the city council upon due notice and an opportunity to be heard. The city may, in addition, pursue any other available civil or criminal remedies or penalties. (Ord. 869 § 1, 2004)

2.58.140 Program administration.

A. Up to twenty percent of the percent for art allocations may be expended on program administration, project management and community outreach activities, including, but not limited to, staffing, artist selection, publicity, community education activities, project documentation, consultants, and other activities necessary for the administration of the program.

B. Maintenance. Proceeds of the percent for art program shall not be used for maintenance of the public art collection. Routine and preventive maintenance of works of art shall be funded by the city council and performed by the public works department, under the guidance of the art and cultural commission. The art and cultural commission as part of the annual budget process shall submit requests for non-routine and restorative maintenance, as well as other curatorial services. (Ord. 869 § 1 (part), 2004)

Chapter 2.60

MILITARY EQUIPMENT USE

Sections:

- 2.60.010 Name of chapter.
- 2.60.020 Definitions.
- 2.60.030 Military equipment use policy requirement.
- 2.60.040 Use in exigent circumstances.
- 2.60.050 Reports on the use of military equipment.
- 2.60.060 Severability.

2.60.010 Name of chapter.

A. This chapter shall be known as the military equipment use ordinance. (Ord. 1051 § 3 (Exh. A), 2022)

2.60.020 Definitions.

A. "Military equipment" includes all of the following (per Cal. Gov. Code § 7070):

1. Unmanned, remotely piloted, powered aerial or ground vehicles.
2. Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this definition.
3. High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this definition.
4. Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
5. Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
6. Weaponized aircraft, vessels, or vehicles of any kind.
7. Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this definition.
8. Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this definition.
9. Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this definition.
10. Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.
11. Any firearm or firearm accessory that is designed to launch explosive projectiles.
12. "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard, service-issued handheld pepper spray.
13. Taser Shockwave, microwave weapons, water cannons, and the long range acoustic device (LRAD).

The Capitola Municipal Code is current through Ordinance 1061, passed June 22, 2023.

14. The following projectile launch platforms and their associated munitions: 40mm projectile launchers, “bean bag,” rubber bullet, and specialty impact munition (SIM) weapons.
 15. Any other equipment as determined by a governing body or a state agency to require additional oversight.
 16. Notwithstanding subsections (A)(1) through (15), “military equipment” does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.
- B. “City” means any department, agency, bureau, and/or subordinate division of the city of Capitola.
- C. “Police department” means any division, section, bureau, employee, volunteer and/or contractor of the Capitola police department.
- D. “City council” means the governing body that is the Capitola city council.
- E. “Military equipment use policy” means a publicly released, written document that includes, at a minimum, all of the following:
1. A description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.
 2. The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.
 3. The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
 4. The legal and procedural rules that govern each authorized use.
 5. The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of military equipment to ensure the full protection of the public’s welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy.
 6. The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.
 7. For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.
- F. “Exigent circumstances” means a law enforcement agency’s good faith belief that an emergency involving the danger of, or imminent threat of death or serious physical injury to any person is occurring, has occurred, or is about to occur.
- G. “State agency” means the law enforcement division of every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.
- H. “Type” means each item that shares the same manufacturer model number. (Ord. 1051 § 3 (Exh. A), 2022)

2.60.030 Military equipment use policy requirement.

A. The Capitola police department shall obtain approval of the city council, by a resolution adopting a military equipment use policy (MEUP) at a regular meeting of the city council held pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) prior to engaging in any of the following:

1. Requesting military equipment made available pursuant to 10 U.S.C. Section 2576a.
2. Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
3. Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
4. Collaborating with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the city of Capitola.
5. Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.
6. Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of, military equipment.
7. Acquiring military equipment through any means not provided by this section.

B. No later than May 1, 2022, if seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, the Capitola police department shall commence a city council approval process in accordance with this section. If the city council does not approve the continuing use of military equipment, including by adoption pursuant to a military equipment use policy submitted pursuant to this code, within 180 days of submission of the proposed military equipment use policy to city council, the Capitola police department shall cease its use of the military equipment until it receives the approval of city council in accordance with this code.

C. In seeking the approval of city council, the Capitola police department shall submit a proposed military equipment use policy to the city council and make those documents available on the police department's internet website at least 30 days prior to any public hearing concerning the military equipment at issue.

D. The city council shall only approve a military equipment use policy pursuant to this chapter if it determines all of the following:

1. The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
2. The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
3. If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
4. Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

E. In order to facilitate public participation, any proposed or final military equipment use policy shall be made publicly available on the internet website of the police department for as long as the military equipment is available for use.

F. The city council shall review this chapter at least annually and vote on whether to renew it at a regular meeting held pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code). (Ord. 1051 § 3 (Exh. A), 2022)

2.60.040 Use in exigent circumstances.

A. Notwithstanding the provisions of this chapter, the police department may acquire, borrow and/or use military equipment in exigent circumstances without following the requirements of this code.

B. If the police department acquires, borrows, and/or uses military equipment in exigent circumstances, in accordance with this section, it must take all of the following actions:

1. Provide written notice of that acquisition or use to the city council within 30 days following the commencement of such exigent circumstance, unless such information is confidential or privileged under local, state or federal law.
2. If it is anticipated that the use will continue beyond the exigent circumstance, submit a proposed amended military equipment use policy to the city council within 90 days following the borrowing, acquisition and/or use, and receive approval, as applicable, from the city council.
3. Include the military equipment in the police department's next annual military equipment report. (Ord. 1051 § 3 (Exh. A), 2022)

2.60.050 Reports on the use of military equipment.

A. The police department shall submit to city council an annual military equipment report for each type of military equipment approved by the city council within one year of approval, and annually thereafter for as long as the military equipment is available for use.

B. The police department shall also make each annual military equipment report required by this section publicly available on its internet website for as long as the military equipment is available for use.

C. The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:

1. A summary of how the military equipment was used and the purpose of its use.
2. A summary of any complaints or concerns received concerning the military equipment.
3. The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.
4. The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.
5. The quantity possessed for each type of military equipment.
6. If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

D. Within 30 days of submitting and publicly releasing an annual military equipment report pursuant to this section, the police department shall hold at least one well publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the law enforcement agency's funding, acquisition, or use of military equipment.

E. The city council shall determine, based on the annual military equipment report submitted pursuant to this section, whether each type of military equipment identified in that report has complied with the standards for approval set forth in this code and the military equipment use policy. If the city council determines that a type of military equipment identified in that annual military equipment report has not complied with the standards for approval, the city council shall either disapprove a renewal of the authorization for that type of military equipment or require modifications to the military equipment use policy in a manner that will resolve the lack of compliance. (Ord. 1051 § 3 (Exh. A), 2022)

2.60.060 Severability.

A. If any section, subsection, sentence, clause, phrase, or word of this chapter, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of this chapter.

B. The city council hereby declares that it would have passed this chapter and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this chapter or application thereof would be subsequently declared invalid or unconstitutional. (Ord. 1051 § 3 (Exh. A), 2022)



ADMINISTRATIVE POLICY

Item 9 D.

Number: I-15
Issued: 3/25/03
Revised: 10/30/03
Revised: 5/30/13
Revised: 10/31/14
Revised: 12/02/16
Jurisdiction: City Manager

Agenda Preparation Procedures for City Council and Successor Agency Meetings

I. PURPOSE:

This procedure establishes a uniform procedure for the preparation of agendas for City Council and Successor Agency meetings.

II. POLICY:

All materials submitted for inclusion in a City Council/Successor Agency meeting agenda must be submitted in accordance with the attached "Agenda Preparation Procedures." Exceptions will only be made with City Manager approval.

City Council/Successor Agency agenda reports are to be prepared and submitted as far in advance of the meeting as possible. Staff is encouraged not to wait until the deadline to submit agenda materials.

Department heads are responsible to review all agenda report attachments to ensure that they are accurate and are vitally required to be copied and distributed.

All agenda items should be treated as documents for internal distribution only until they are presented to the City Council in their agenda packets (at 5:00 p.m. on the Friday preceding the City Council meeting).

This policy is approved and authorized by:

Jamie Goldstein
City Manager

Attachment: Agenda Preparation Procedures

JG/ss

AGENDA PREPARATION PROCEDURES

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I. Introduction

This Agenda Preparation Procedure has been developed to acquaint City staff with the various aspects of the agenda process, and to provide a helpful guide in the preparation of agenda items for City Council or Successor Agency Agenda Packets. This procedure provides schedules and deadlines concerning the City Council and Successor Agency Agendas, and describes standard procedures for the preparation and coordination of City Council/Successor Agency Agenda Staff Reports using MinuteTraq (legislative management software). All references to City Council relate also to the Successor Agency.

Updates will be provided as procedures change. Please contact the City Clerk with suggestions for improving this procedure or to make it more useful.

II. City Council Agenda Format Description

The Agenda [Attachment 1] is the official order of business at City Council meetings. The Mayor may reorder an item if the need arises. If an item is reordered it retains its original Item No., and the Mayor advises that the item will be discussed (i.e. “following General Government/Public Hearing Item 9.D.”).

Regular City Council meetings are held on the second and fourth Thursday of each month and typically begin at 7:00 p.m. but in no event earlier than 6:00 p.m. If there are items to be discussed in Closed Session, the Council generally meets prior to the Regular Meeting. Capitola Successor Agency meetings are generally held following the City Council Meeting [Agenda - Attachment 2]

A. Presentations

The Presentation section of the Agenda is for awards, plaques, proclamations¹, or other forms of recognition. Special presentations may come from Council Members, community organizations, non-profit organizations, outside agencies, citizens, or City staff. The City Clerk coordinates these matters with the Mayor and the City Manager.

B. Report on Closed Session

Following the Presentation section of the Agenda is “Report on Closed Session.” At this time the City Attorney will provide a verbal report informing the public of items discussed in Closed Session and action taken by the Council, if any.

The Ralph M. Brown Act (GC§ 54950 et seq.) specifies certain matters the City Council is permitted to meet privately on, such as

- Conference with Labor Negotiators
- Conference with Legal Counsel — Anticipated/Existing Litigation
- Conference with Real Property Negotiators
- Liability Claims
- Public Employee Appointment
- Public Employee Discipline/Dismissal
- Public Employment
- Public Employee Performance Evaluation
- Threat to Public Services or Facilities

¹ See Administration Police I-35 Proclamations

II. City Council Agenda Format Description (continued)

C. Additions and Deletions to the Agenda

The Council may add items of business to the Agenda under the following circumstances, after the Mayor publicly identifies the item:

1. Upon a majority vote that an emergency situation exists, as that term is defined in the Brown Act; or
2. Upon a determination by a two-thirds vote or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the Agenda being posted; or
3. The item was posted for a prior meeting of the Council not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

D. Public Comments

This section of the Agenda permits members of the public to comment on issues and concerns that are within the jurisdiction of the City of Capitola but are not listed on the Agenda. The Mayor may set a maximum amount of time for each speaker, generally three minutes. The Council may not take action regarding any matter arising from a request or concern voiced during Public Comment except by following the process outlined in Section C above because the matter was not listed on the posted Agenda pursuant to the Brown Act. Council may refer the matter to staff for research and/or ask that it be placed on a future Agenda. A maximum of 30 minutes is set aside for Public Comments at this time.

Pictures, letters, petitions, and similar documents offered for Council Member review during Public Comments should be forwarded to the City Clerk who retains them for the record.

E. City Council/City Treasurer/Staff Announcements

This section of the Agenda is reserved for issues raised by an individual Council Member, City Treasurer, or staff for discussion and/or action or for Council Member reports, that is, briefings and summaries concerning meetings, projects, or miscellaneous comments and statements. A Council report may be entirely oral or may include written information. Written reports are submitted to the City Manager for inclusion in the Agenda Packet. Generally, more complex Council announcements and recommendations are accompanied by a written report. The City Council may not take action or give direction unless the issue was printed on the Agenda and posted 72 hours prior to meeting (unless by urgency motion and a four-fifths vote).

F. Boards, Commissions and Committee Appointments

Board, commission, or committee appointments are placed under this section.²

G. Consent Calendar

All items listed on the Consent Calendar are considered to be routine, not considered controversial, and do not need discussion. The recommended action for Consent Calendar items should be self-explanatory and should not require input by the Council. The Consent Calendar is approved by one motion. There is no separate discussion unless a Council Member, staff member, or citizen requests separate discussion of an item and that item is removed from the Consent Calendar.

² Refer to Administrative Procedure I-20: Board, Commission and Committee Guide Procedures

II. City Council Agenda Format Description (continued)

H. Items Removed from the Consent Calendar

Items removed from the Consent Calendar for separate discussion are placed at the end of the Agenda following the last item of General Government/Public Hearing, unless reordered by the Mayor. The Council may ask for a staff report and/or may ask questions about the item at that time.

I. General Government/Public Hearings

All items required by the Capitola Municipal Code or California Government Code to be Public Hearings are noticed as such and are held under this section of the Agenda. The introduction of new ordinances and ordinance amendments, or controversial business matters are General Government/Public Hearing items. Appeals of Planning Commission applications are generally set for Public Hearing. Public Hearings are items on which the City Council is required to obtain public input in a formal setting. Consideration should be given to the overall length of the City Council meeting when scheduling Public Hearings.

General Government/Public Hearings are intended to provide an opportunity for public discussion of each item. The following procedure is followed for each General Government/Public Hearing listed: 1) staff explanation; 2) Council questions; 3) public comment; 4) Council deliberation; 5) Decision.

J. Additional Material

Occasionally a matter before the Council generates communications from the public prior to the meeting. Such communications can be in writing or via email.

Pursuant to Government Code § 54957.5, all materials relating to an agenda item for an open session of a regular meeting of the City Council which are provided within 72 hours of the meeting are to be made available for public inspection.

If staff is the only recipient of correspondence addressed to the Council after the agenda packet has been delivered or if staff has additional material and/or corrections to an original agenda report, then the City Clerk shall immediately forward by email the documents to the Council. On the header of each document the City Clerk shall add "Additional Material" (including the agenda item number and meeting date).

All other correspondence emailed directly to the City Council after the agenda packet has been delivered shall be emailed by 3:00 p.m. on Wednesday, the day prior to the meeting using the Outlook "Agenda & Agenda Packet Distribution List."³ In addition, the City Clerk shall provide copies of all additional material for public inspection on the designated clipboard (entitled "Additional Material") in the City Hall lobby. The City Clerk is to place copies in the Council Members' places at the dais in the Council Chambers prior to the meeting, and provide additional copies for the public.

All distributed Additional Materials are to be incorporated into a revised agenda and agenda packet through MinuteTraq after the applicable City Council meeting has been held. Each numbered agenda item which has Additional Materials found pertinent to it is added separately under the numbered agenda item listed as "Additional Materials" by its original agenda item number and description of the materials regarding the applicable agenda item (e.g. Item 8.H. Public Communication(s) regarding Installation of Blue Curbed Parking Spaces). This is done by creating a new Communication in MinuteTraq then once the Communication has been created it is added to the agenda and agenda packet through MinuteTraq's Agenda Wizard for finalization of the revision and to the minutes through Minute Wizard for their finalization.

³ The "Agenda & Agenda Packet Distribution List" includes the City Council, City staff, City Attorney, local media, and other interested members of the public. This list is maintained in the City Clerk's Outlook contracts.

II. City Council Agenda Format Description (continued)

In creating the new Communication per each agenda item that has had Additional Materials found applicable to it the following steps are to be taken once in MinuteTraq:

1. Under the drop down menu for New select, Communication.
2. Under the drop down menu for Communication Type select, Additional Materials.
3. Under the drop down menu for Received select, a date prior to the actual meeting date.
4. Under the drop down menu for Target Meeting select, actual meeting date.
5. Within the Subject indicate, Agenda Item Number and Description (e.g. Item 8.H. Public Communications regarding Installation of Blue Curbed Parking Spaces).
6. Under File (Optional) browse and find the PDF of the Additional Materials received to add by clicking on it in its location.
7. Click on OK to save.

The new created Communication can be added to the agenda and agenda packet through MinuteTraq's Agenda Wizard by selecting it to be added under the "Communications" tab within the applicable meeting. When added both the agenda and agenda packet can be regenerated and reposted to the City's website under "Meeting Video" with the word "REVISED" in red as part of the agenda title and file name. It does not have to be redistributed, but should also be reposted on the City's website under "Agendas/Minutes." Save both the revised agenda and agenda packet regenerated files within the dated Agenda Reports directory. (e.g. R:\CITY COUNCIL\Agenda Staff Reports\2016 Agenda Reports\112216 CC Meeting\Agenda Working Folder 11-22-16 CC Agenda Packet Revised).

Once the revised agenda and agenda packet have been regenerated and are in place the Additional Materials can be reflected in the Minutes through MinuteTraq's Minute Wizard by selecting "Auto Fill From Agenda" using the Action drop down menu.

III. Agenda Process and Schedule

A. Items Requiring City Council Approval

The City Council is the policy making body of the City, and, as such, reviews or approves major policy matters, fiscal concerns, and major projects. The Council can only act as a public body in open or Closed Session as allowed by law when there is a quorum present and the matters before the Council have been properly noticed and agendized. Unless the item being considered is administrative or has otherwise been delegated to the City Manager or City staff, the item will require Council approval. If a City staff member is unclear about whether a matter requires Council action, the Department Head should be consulted and, if there still are questions, the City Manager's office should be consulted. Capitola Municipal Code (CMC) §2.04.140 addresses placement of items on the Council Agenda. Items that are solely for the information of the Council and were not specifically directed to be considered at a City Council meeting should be provided to the Council through the City Manager's office outside the formal Agenda process.

III. Agenda Process and Schedule (continued)

Some Items Requiring Council Approval

- Expenditure of \$25,000 or more
- Increases/decreases to total appropriations for a program area
- Transfers of appropriations between program areas
- Increases/decreases of more than \$25,000 in a capital project
- Transfers to/from reserves, cancellation of appropriations, and appropriations of fund balances
- Agreements/contracts/change orders exceeding \$25,000
- Annual budget
- Appeals of Planning Commission decisions
- Applications for a grant
- Authorization to commence formal bidding (at discretion of City Manager)
- Commission/committee appointments
- Development agreements
- Donation of surplus property (30-day notification)
- Eminent domain
- Fees (new or amended)
- General Plan amendments
- Municipal Code/City Ordinance amendments
- Personnel classifications/amendments to Memorandums of Understanding
- Ratification of emergency purchases
- Resolutions
- Settlement of lawsuits
- Street name changes
- Street vacations
- Zoning Text/Map amendments

III. Agenda Process and Schedule (continued)

B. Agenda Process

The preparation, publication, and distribution of the Agenda and staff reports for the City Council meetings are controlled by deadlines [Attachment 3]. All agenda reports are prepared, reviewed and approved through MinuteTraq (legislative management software). To avoid problems and delays, departments must comply with the MinuteTraq procedures [Attachment 4].

1. The preparer of the Agenda staff reports adds items to MinuteTraq, including “Placement” on Agenda (Consent, General Government/Public Hearings, Presentations, etc.); “Formal Title/Summary”; and “Discussion” (Recommended Action) preferably the earliest the preparer knows the meeting date the item is to go City Council or on Monday afternoon by 4:00 p.m., two weeks prior to the meeting for which the items are to be agendized. This will place the agenda items on the City Council Work in Progress (WIP) list that the City Clerk prepares regularly and is distributed via email to staff.
2. The City Attorney (“Legal Review”) should be included in the MinuteTraq workflow for Agenda Reports containing contracts/agreements and ordinances. The original contracts will be retained by the Contract Manager until approved, and will then be given to the City Manager for signature following the meeting.⁴
3. The final submission of staff reports in MinuteTraq are due no later than Wednesday by 4:00 p.m., the week prior the City Council meeting. An email containing any special instructions regarding the Agenda item; i.e. a list of individuals and/or outside agencies (names, mailing addresses or emails addresses) who should receive a copy of the staff report, special follow-up requirements, etc. should be submitted at this time as well. The City Clerk is included in the MinuteTraq workflow to review all staff reports for format and completeness, particularly with respect to resolutions/ordinances.
4. Following review, the City Clerk or City Manager may email the preparer stating that additional information/changes are needed.
5. The City Clerk/Records Coordinator will generate a Draft Agenda in MinuteTraq for review by Department Heads at the Department Head Staff Meeting which is typically on Thursday morning at 10:00 a.m. the week prior to the City Council meeting.
6. On Friday following the staff meeting (week prior to the City Council meeting) the City Clerk/Records Coordinator will generate the Final Agenda and Agenda Packet for distribution.
7. Distribution of Agenda materials is completed and packets are made for those listed on the Agenda Distribution List [Attachment 11]. A counter copy of the Agenda Packet and copies of the Agenda are placed in the rack in the lobby in the City Hall reception area. A copy of the Agenda is posted on the meeting board located in the City Hall foyer next to the Council Chambers by 5:00 p.m.; other Agenda Packet distribution includes the Capitola Branch Library and Council Members that request hard copies of the packet. Agenda copies are also delivered to the Capitola Post Office.

⁴ Refer to Administrative Procedure I-16: Development, Review, Approval & Custody of Contracts.

III. Agenda Process and Schedule (continued)

C. Staff Report Changes

Should staff members that are included in the MinuteTraq workflow recommend changes be made, it is the responsibility of the originating department to make the required changes in the staff report. No change should be made to a staff report without the knowledge of the preparer and the concurrence of previous reviewers.

Any significant changes in an Agenda item such as the Formal Title/Summary or the Discussion (Recommended Action) need to be communicated promptly to the City Clerk so that the agenda can be updated accordingly.

D. Agenda Schedule

	Monday	Tuesday	Wednesday	Thursday	Friday
TWO WEEKS PRIOR TO THE MEETING	Enter agenda item in MinuteTraq including Formal Title/Summary, Discussion (Recommended Action), Placement, Comments (includes Background, Discussion and Fiscal Impact)	City Clerk/Records Coordinator generates the Draft Agenda			
ONE WEEK PRIOR TO THE MEETING	Submit staff report in MinuteTraq.	<p>City Clerk emails the staff report preparer if corrections are needed.</p> <p>An email with the names, addresses, or emails addresses of individuals or organizations that should receive copies of the Agenda and staff report, as well as any special instructions (i.e. forward certified copy of resolution after adoption) should accompany final staff report.</p>	All staff report must be submitted in MinuteTraq by 4:00 p.m.	Typically the Dept. Head Staff Meeting is 10 a.m. for the final Council agenda review.	<p>Staff reports are generated into Agenda Packet and distributed. Agenda Packet web link is emailed to staff, public, and the press using the MinuteTraq distribution list.</p> <p>Agenda posted in the foyer at City Hall next to the Council Chambers by 5:00 p.m.</p> <p>Agenda Packets delivered to City Council Members that requested hard copies & the Capitola Library by 5 p.m.</p> <p>Agendas only are placed in tray at Capitola Post Office</p>
WEEK OF MEETING		Late item delivery if approved. City Clerk must receive any late items no later than 12 noon for distribution.		City Council/ Successor Agency Meetings	

III. Agenda Process and Schedule (continued)

E. Agenda Deadline/Meeting Date Changes

Deadlines for staff submittal of staff reports are contained on “Staff Report Submittal Deadlines” document, which is updated annually [Attachment 3]. If there are any changes to that schedule, the City Clerk will send an email to all Department Heads informing them of changes to deadlines.

The City Council/Successor Agency may approve having only one regularly scheduled Council/Successor Agency meeting during the month of July and one regular meeting in August. In addition, the second meeting in November is generally held on the fourth Tuesday due to the Thanksgiving Holiday.

F. Confidential Closed Session Memorandum Transmittal


The Brown Act requires that all Closed Session items (restricted by law) be posted on the City Council Agenda. The City Attorney’s Office generally prepares confidential Closed Session memorandums. Filing times are the same as for the Regular City Council staff report transmittal.

Generally, only the City Manager, City Attorney and City Council will use the confidential Closed Session memorandums. The City Attorney’s Memorandums and any attached material will remain confidential.

III. Agenda Process and Schedule (continued)

G. City Council Staff Reports

Note: The staff reports shall be prepared in MinuteTraq using Arial 11 pt. font.

 <p>CAPITOLA CITY COUNCIL AGENDA REPORT</p> <p>MEETING OF _____</p> <p>FROM: (Name of Department; i.e. City Manager's Dept., Police Dept.)</p> <p>SUBJECT: ("Formal Title/Summary" section of Minute Traq) 1</p> <hr/> <p>RECOMMENDED ACTION: ("Discussion" section of MinuteTraq) 2</p> <p style="text-align: center;">.....</p> <p>Following are in the "Comments" section of MinuteTraq</p> <p>BACKGROUND: 3</p> <p>DISCUSSION: 4</p> <p>FISCAL IMPACT: 5</p> <p>The following lists attachment uploaded in Minute Traq</p> <p>ATTACHMENTS: 6</p> <p>Report Prepared by: _____ 7</p> <p style="text-align: center;">Reviewed and Forwarded By City Manager: ____ 8</p>
--

1. **Formal Title (Summary):** Simple, descriptive phrase identifying the item under consideration. This language will appear on the Agenda.
2. **Discussion (Recommended Action):** The Staff, Committee, or Council Member recommendation for Council consideration and action. It is not necessary to begin the recommended action with the words: "That the City Council...". Merely state the action to be taken (i.e. "Adopt, approve, authorize, award," etc.). If approved, the recommendation generally becomes part of the motion. If more than one action is recommended, the actions should be identified and listed separately. This language will appear on the Agenda.

Comment includes the following:

Background: The background category is intended to provide information regarding prior City Council and/or advisory body discussion or action on this subject.

- a) **Discussion:** The Discussion category is intended to provide information justifying the Recommended Action, including a description of the required action. Staff should list and analyze viable alternatives, including a discussion of the financial impacts and operation benefits/consequences of each alternative. The discussion should be factual, to the point, and easily understood. Conclude discussion by summarizing the facts analyzed and provide justification for the selection of the recommended action.
- b) **Fiscal Impact:** A complete and verifiable fiscal impact statement is required on all staff reports. If there is a cost to the Recommended Action, identify the total cost of the recommendation and check to indicate whether or not sufficient funds are available. Include all fiscal impacts, including start-up costs, budget implications, budget transfers, annualized operating costs, and projected revenue increases or decreases. The Finance Director is to be included in the MinuteTraq workflow process for review of the fiscal impact.
4. **Attachments:** The contents of voluminous attachments may be summarized in the staff report with the actual materials placed on file in the City Clerk's office (plans and specifications, maps, and the like). Items placed on file with the City Clerk and not distributed with the staff report are indicated in this section. If a attachment is distributed to Council Members only, a notation to that effect is made in parenthesis next to the attachment description.
5. **Report Prepared By:** The name and title of the person preparing the staff report.
6. **Reviewed and Forwarded By:** This signature line indicates that the staff report has been reviewed by the City Manager and is approved with an electronic signature.

III. Agenda Process and Schedule (continued)

H. Ordinances

Ordinances are laws of a municipality. The City Council is given the authority to pass local laws (ordinances) pursuant to GC§ 37100 if those ordinances are not in conflict with the laws of the Federal or State government. An ordinance is the most binding form of action that the City Council can take, the violation of which is a misdemeanor, unless it is made an infraction (GC§ 36900). Generally, an ordinance is required when an existing ordinance is amended or repealed, when the law will impose a penalty by fine, imprisonment or forfeiture, or when required by statute. Ordinances are codified by a publisher into the Capitola Municipal Code, which is an exact recitation of the City's ordinances currently in effect as local laws. Chapter 1.01 of the CMC addresses Code Adoption. The procedure for adoption of an ordinance is set forth in the Government Code and must be followed or the ordinance may be subject to challenge and could be declared void. All ordinances require a majority vote of the City Council to be enacted, with the exception of urgency ordinances which requires a 4/5's vote of the City Council.

Types of Ordinances/Placement on the Agenda

There are two types of ordinances:

1. Regular Ordinance

Approval of an ordinance requires a first reading (introduction) and a second reading (adoption). The adoption can occur only at a Regular or Adjourned Regular Meeting held at least five days after introduction of the ordinance. A regular ordinance takes effect on the thirty-first day after adoption.

Regular ordinances being introduced are placed under the General Government/Public Hearings section of the Agenda. Regular ordinances being adopted (read for a second time) are generally placed on the Consent Calendar section of the agenda.

2. Urgency (Emergency) Ordinance

An urgency ordinance takes effect immediately upon adoption or takes effect at a date specified, that is less than thirty days after adoption. The urgency ordinance requires a 4/5's vote of the City Council and may be adopted at a Special or Regular Meeting. The ordinance must contain a declaration of the facts which constitute the urgency, i.e. the reasons why the urgency ordinance is necessary "for the immediate preservation of the public peace, health or safety." (GC§ 36937 (b)). Urgency ordinances are placed under the General Government/Public Hearings section of the Agenda.

III. Agenda Process and Schedule (continued)

Ordinance Drafting Procedures

Ordinances amend, revise, rescind or add sections of the Municipal Code unless the ordinance is designated to be uncodified. The content of the bodies of the ordinances and Municipal Code is identical. When drafting an amendment or repealing an ordinance, it is important to identify within the ordinance the affected municipal code section(s) being amended or repealed. The template for ordinances is located in the shared drive at: <R:\CITY COUNCIL\Templates\Ordinance Template.dotx> [Attachment 8]. The City Attorney (Legal Department) must be included in the MinuteTraq workflow in order to review all ordinances prior to being approved for the Agenda Packet.

I. Resolutions

A Resolution constitutes a written action or decision; however, it usually does not demand the legal processing required of an ordinance. A resolution is generally introduced and adopted at the same meeting and is effective upon adoption. Most resolutions do not require publishing or posting as do ordinances, unless there is a specific statute or local custom making this mandatory.

If a certified copy of a resolution is required for disbursement following the meeting, the staff person is responsible for informing the City Clerk as to whom copies are to be sent and address(es). After a resolution is adopted and executed, the City Clerk will certify copies as requested.

The template for City Council Resolutions is located in the Shared drive at: <R:\CITY COUNCIL\Templates\Resolution Council Template.dotx> [Attachment 9]. Successor Agency Resolution template is located at: <R:\CITY COUNCIL\Templates\Resolution SA Template.dotx> [Attachment 7].

J. Minute Orders

Minute Orders are made to memorialize Council actions when a resolution or ordinance is not necessary, or to address non-recurring situations, and are reflected in the minutes under "ACTION:" taken for the Agenda item.

*Pursuant to Government Code 54957.5, all materials relating to an agenda item for an open session of a regular meeting of the Board of Supervisors which are provided to a majority or all of the members of the Board by Board members, staff or the public within 72 hours of but prior to the meeting will be available for public inspection, at and after the time of such distribution, in the office of the Clerk of the Board of Supervisors, 810 Court Street, Jackson, California 95642, Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m., except for County holidays. Materials distributed to a majority or all of the members of the Board at the meeting will be available for public inspection at the public meeting if prepared by the members of the Board or County staff and after the public meeting if prepared by some other person. Availability of materials related to agenda items for public inspection does not include materials that are exempt from public disclosure under Government Code sections 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, or 6254.22.

City of Capitola Agenda

Mayor: Ed Bottorff
 Vice Mayor: Stephanie Harlan
 Council Members: Jacques Bertrand
 Dennis Norton
 Michael Termini
 Treasurer: Christine McBroom



**CAPITOLA CITY COUNCIL
 REGULAR MEETING**

THURSDAY, _____, _____

7:00 PM

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

**CLOSED SESSION - _____ PM
 CITY MANAGER'S OFFICE**

An announcement regarding the items to be discussed in Closed Session will be made in the City Hall Council Chambers prior to the Closed Session. Members of the public may, at this time, address the City Council on closed session items only. There will be a report of any final decisions in City Council Chambers during the Open Session Meeting.

REGULAR MEETING OF THE CAPITOLA CITY COUNCIL - 7:00 PM

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

All matters listed on the Regular Meeting of the Capitola City Council Agenda shall be considered as Public Hearings.

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

3. REPORT ON CLOSED SESSION

4. ADDITIONAL MATERIALS

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

5. ADDITIONS AND DELETIONS TO AGENDA

6. PUBLIC COMMENTS

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

7. CITY COUNCIL / CITY TREASURER / STAFF COMMENTS

City Council Members/City Treasurer/Staff may comment on matters of a general nature or identify issues for staff response or future council consideration.

8. CONSENT CALENDAR

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

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

9. GENERAL GOVERNMENT / PUBLIC HEARINGS

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

10. ADJOURNMENT

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

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

Agenda and Agenda Packet Materials: The City Council Agenda and the complete Agenda Packet are available for review on the City's website: www.cityofcapitola.org and at Capitola City Hall and at the Capitola Branch Library, 2005 Wharf Road, Capitola, prior to the meeting. Agendas are also available at the Capitola Post Office located at 826 Bay Avenue, Capitola. Need more information? Contact the City Clerk's office at 831-475-7300.

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

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

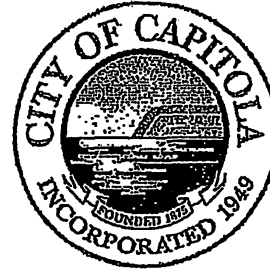
Televised Meetings: City Council meetings are cablecast "Live" on Charter Communications Cable TV Channel 8 and are recorded to be rebroadcasted at 8:00 a.m. on the Wednesday following the meetings and at 1:00 p.m. on Saturday following the first rebroadcast on Community Television of Santa Cruz County (Charter Channel 71 and Comcast Channel 25). Meetings are streamed "Live" on the City's website at www.cityofcapitola.org by clicking on the Home Page link "Meeting Video." Archived meetings can be viewed from the website at anytime.

City of Capitola Agenda

ATTACHMENT 2

Mayor: _____
 Vice Mayor: _____
 Council Members: _____

 Treasurer: _____



**CITY OF CAPITOLA, AS SUCCESSOR AGENCY
 TO THE FORMER CAPITOLA REDEVELOPMENT AGENCY
 THURSDAY, _____,**

After the adjournment of the City Council Meeting

All matters listed on the Regular Meeting of the City of Capitola Successor Agency Agenda shall be considered as Public Hearings.

1. **ROLL CALL**
 Board Members Dennis Norton, Sam Storey, Ed Bottorff, Michael Termini, and Chairperson Stephanie Harlan

2. **ORAL COMMUNICATIONS**
 - A. Additions and Deletions to Agenda
 - B. Public Comments

Oral Communications allows time for members of the Public to address the Successor 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

3. **GENERAL GOVERNMENT/PUBLIC HEARINGS**

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

4. **ADJOURNMENT**

Adjourn to the next regular meeting of the City of Capitola, as Successor Agency to the former Capitola Redevelopment Agency, is to be determined.

**2016 CITY OF CAPITOLA
City Council and Successor Agency Meeting Dates
and Deadline for Submittal of Agenda Items**

Item 9 D.

SUBMITTAL DATE ¹	MEETING DATE ²
JANUARY 4	JANUARY 14
JANUARY 19	JANUARY 28
FEBRUARY 1	FEBRUARY 11
FEBRUARY 16	FEBRUARY 25
FEBRUARY 29	MARCH 10
MARCH 14	MARCH 24
APRIL 4	APRIL 14
APRIL 18	APRIL 28
MAY 2	MAY 12
MAY 16	MAY 26
MAY 31	JUNE 9
JUNE 13	JUNE 23
JULY 18	JULY 28
AUGUST 1	AUGUST 25
AUGUST 29	SEPTEMBER 8
SEPTEMBER 12	SEPTEMBER 22
OCTOBER 3	OCTOBER 13
OCTOBER 17	OCTOBER 27
OCTOBER 31	NOVEMBER 10
NOVEMBER 14	TUESDAY, NOVEMBER 22 ▲ ▲
NOVEMBER 28	DECEMBER 8

Items to be included on a particular agenda must be submitted to the City Manager's Office NO LATER than 5 p.m. on the submittal date so that a staff report may be prepared. Items received after that date may be scheduled for the next available agenda.

NOTE: ▲ ▲ DUE TO THANKSGIVING HOLIDAY, THE MEETING WILL BE HELD ON TUESDAY

This schedule was approved at the November 12, 2015, City Council meeting.

¹ Submittal dates are on Mondays, with the exception of Tuesdays that follow a holiday as indicated above.

² Regular Meetings of the City Council/Successor Agency are held on the 2nd & 4th Thursdays of each month. The Regular City Council meetings begin at 7:00 p.m. (or in no event earlier than 6:00 p.m.) in the Capitola City Hall Council Chambers, 420 Capitola Avenue, Capitola, CA.

CREATING A NEW CITY COUNCIL STAFF REPORT IN ACELA

Rev 8/14/15

Item 9 D.

STEP 1:
Click on "New"
to create a new
staff report

Enter brief name
in the "Short
Name" box.

Select target meeting
date from the drop
down.

Leave blank

Select a category from the
"Categories" drop down list. Refer to
the "Category List" handout.

Enter the formal item description by capitalizing each
word (except words like "and", "a", "for", "the", "to",
etc.). This title will be visible on the staff report and the
City Council Agenda

Make sure "City
Council" is selected

Agendas and Minutes

Edit View Lists Tools Reports Window Help

New Save & Close Comment History

Quick Links

Recent Documents

1101: McGregor Park Rem...
McGregor Park_Attachmen...
1107: Su Test 080715
1103: 2015 Grand Jury Res...
1106: Successory Agency...
1100: Capital Improvement...
1106: 411 Beverly Extension
Find More...

Details

File Number (Clerks Office Only):

Workflow

Stage	Reviewer	Description	Due Date	Status
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Staff Report Body

Formal Title / Summary:

Discussion:

RECOMMENDED ACTION:

Comments:

BACKGROUND:

DISCUSSION:

FISCAL IMPACT:

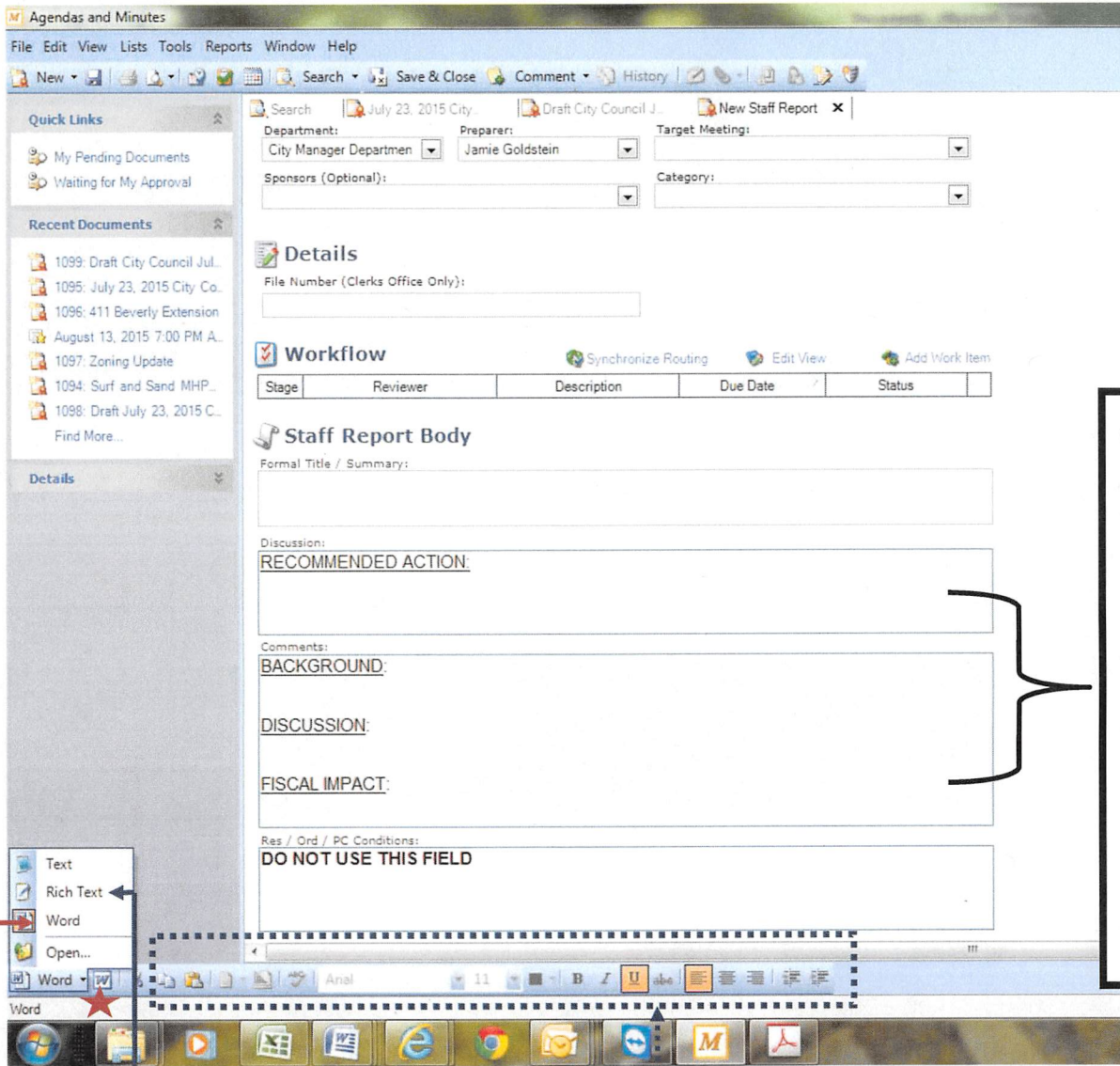
Rich Text

City Council

4:11 PM
8/7/2015

If the "Comments" box is not visible select it by View/Comments

The screenshot shows a software application window titled "Agendas and Minutes". The "View" menu is open, and the "Comments" option is circled in red. A red arrow points from the text box above to the "Comments" option. The main window displays a "Staff Report" form with fields for Name, Status (Draft), Department, Preparer (Jamie Goldstein), Target Meeting, and Category. Below the form is a "Workflow" table with columns for Stage, Reviewer, Description, Due Date, and Status. The "Staff Report Body" section contains text boxes for "Formal Title / Summary", "Discussion: RECOMMENDED ACTION:", "Comments: BACKGROUND:", and "DISCUSSION:".



Option 1 - Editing in Rich Text (see below):
 You may edit text in the "Discussion" or the "Comments" boxes while in the "Rich Text" mode and use the editing tool bar directly below the "Res/Ord /PC Conditions box".
DO NOT SELECT RICH TEXT TO DO TRACK CHANGES IN WORD!

Option 2 - Editing in Word (see below):
 If you click inside either the "Discussion" or the "Comments" boxes you may open the section in Word for editing and to use track changes.

Closing while in Word:
 Close the Word document by clicking "X" in the upper right corner. While in Word you do not need to select SAVE because the content is automatically transferred into the staff report.

Option 1 - Editing in Rich Text:
 Use "Rich Text" ONLY when editing within the "Discussion" or the "Comments" boxes. You can use the editing tool bar.

Option 2 - Editing in Word: If you want to open the "Discussion/Comments" boxes you must select Word in the drop down menu in the bottom left, then click on the Word icon to the right of the dropdown.★

Staff Report

ID# 1101

City Council

Updated 8/7/2015 3:50 PM

Short Name: Status: Submitted

Department: Preparer: Target Meeting:

Sponsors (Optional): Category:

8/07 - SS: minor edits
 8/07 - SS: Approved by Susan Sneddon in Stage 2, sent to Jamie Goldstein at Stage 3.
 8/07 - SS: deleted text in Reso box

Details

File Number (Clerks Office Only):

Workflow

[Edit View](#) [Add Work Item](#)

Stag	Reviewer	Description	Due Date	Status
1	Steve Jesberg	Review		Completed
2	Susan Sneddon	Review		Completed
3	Jamie Goldstein	Sign		Pending
4	City Council	Meeting	08/13/15 07:00 PM	Pending

To enter the placement in an agenda section (Consent, Gen Gov, etc.) click on "Edit View" to change to "Normal View" and go to the next page.

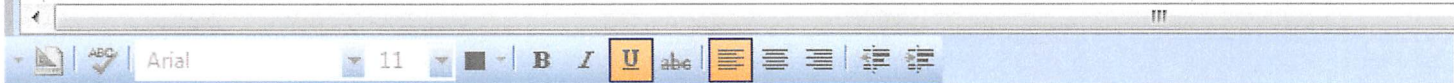
Attachments

[Add File](#) [Add Note](#)

Title	Rev #	Review Status	Progress
McGregor Park_Attachment 1			
McGregor Park_Attachment 2			
McGregor Park_Attachment 3			
McGregor Park_Attachment 4			

Staff Report Body

Formal Title / Summary:



Staff Report

ID# 1101

City Council

Updated 8/7/2015 3:50 PM

Short Name: Status: Submitted

Department: Preparer: Target Meeting:

Sponsors (Optional): Category:

8/07 - SS: minor edits
8/07 - SS: Approved by Susan Sneddon in Stage 2, sent to Jamie Goldstein at Stage 3.
8/07 - SS: deleted text in Reso box

Details

File Number (Clerks Office Only):

Workflow

Normal View Add Work Item

Stage	Reviewer	Placement	Due Date
1	Steve Jesberg		
2	Susan Sneddon		
3	Jamie Goldstein		
4	City Council	AGENDA / PUBLIC HEARINGS	08/13/15 07:00 PM

To place an item in the correct order in an agenda section select one of the following dropdowns.

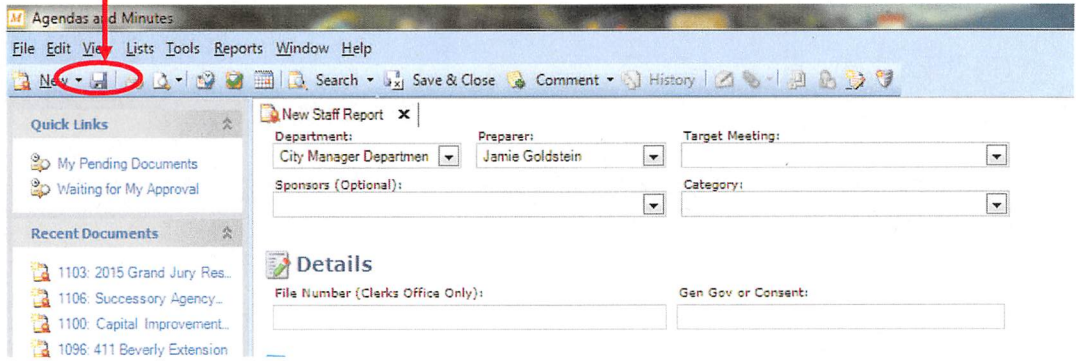
Attachments

File Name	Status	Progress
McGregor Park Attachment 1		
McGregor Park Attachment 2		
McGregor Park Attachment 3		
McGregor Park Attachment 4		

Staff Report Body

Formal Title / Summary:

Make sure you save the document before closing.



Revised 081715

Creating MinuteTraq Agenda Packet

Prior to creating an agenda the following must be in the system:

1. All agenda items must be in the system
2. Each item must have a target meeting
3. Each item must have placement within the agenda (Workflow-Edit View –Placement)

Step 1. Click on the calendar icon in the tool bar.

Step 2. Right click on the correct meeting and choose “Open Agenda Wizard”

Step 3. Right click on the right hand side of the screen and chose “Chose Columns”

Scroll down and check “Placement”. The Placement Column should now show on the right hand side of the screen.

Step 4. Actions: Auto fill Note: Items will only move if they have placement.

If they do not have placement, you can drag and drop an item.

Blue: Ready for agenda.

Gold: Has pending workflow. Not ready.

Green: On agenda. Completed status. Placed on agenda.

Note: Sometimes not all agenda items will show up, such as “Roll Call” or “Pledge of Allegiance”. To fix this:

Close the meeting you’re a working on.

Open a previous meeting that has the correct agenda layout.

Under Action click on Save Default Outline

Step 5. Checking your placement.

Items can be moved by dragging and dropping within the agenda.

It will be saved where you put it. If you auto fill again, the item will move back to the placement identified within the staff report. A good practice is to make sure your placement is correct within the staff report so if you auto fill the items go to the correct placement.

Step 6. Check outline format. City of Capitola uses the following outline format:

1.

A.

1.

If the outline format is not correct, put cursor over the section above the items that are incorrect and right click. Scroll down to “outline format” and chose the correct format.

Step 7. Save. Anytime you modify the agenda you must save.

LOCKING: When you are ready to create the Packet you can lock all documents so coworkers are prevented from modifying any items.

Actions – Lock all documents.

Automatically lock added items.

TAGS: Tags produce a tag to the right of the title of the item in red letters on the agenda. You can create unique tags within the “list” menu for “tags” Example. Revised

ADD On: Items that do not have a staff report, such as a recognition award.

Right click on section of Agenda "Presentation"

Go to add button on the top of the screen. Chose "statement" – "blank"

Type in statement in Agenda. Example "Girl scouts of America receive proclamation"

Publishing an Agenda Packet Mantra: "Synchronize, Generate, Save"

Step 1: Synchronize. Once you have moved Items onto the agenda, new attachments must be synchronized. Go to Actions: Scroll down to synchronize.

NOTE: When you have an irregular sized attachment or small margins on a pdf, your attachment headings will not align correctly. See instructions for attachments on next page.

Step 2: Create a word doc of agenda that can be edited.

- A. Click on Generate.
- B. Click DOC (no appendix) Agenda packet and agenda will be checked off.
- C. Click Generate.
- D. You will receive a message that the agenda was created. Click on Open pulldown in the top tab. Open Agenda Packet
- E. A word document of your agenda will open. Fix as you like then save, highlight the entire text and right click copy, then close.
- F. Click Open pull down in top tab. Open Agenda. Paste your fixed agenda onto the word document. Save. Close.
- G. Save in Agenda Wizard Screen.

Step 3: Create a pdf of Agenda and Agenda Packet

- A. Click on Generate
- B. Click on Generate and select Doc → PDF
- C. Check Agenda Packet and choose "Attachments and Printouts". Note "printout" is staff report.
- D. Check Agenda choose "No Appendix"
- E. Check Board Agenda with Attachments and Printouts. This will include any confidential items.
- F. Generate

Step 3: Save. By saving the document is saved up to the web server. It is not published.

Step 4: View document. Click "Open" on far right to review the documents.

Step 5: Publish document.

- A. Go to Actions
- B. Click on Publish and Distribute Agenda
- C. Check "Finalize Agendas"
- D. Check "Publish to Web" Add date and Versions "both"
- E. Check "Distribute Agenda".
- F. Chose distribution list. Note: All addresses are blind copied.
- G. Click link only.

H. Add message.

I. Click "OK" to publish.

Note: If you need to un-publish. Go to Actions – Publish – Click on "un-publish agenda" in bottom left corner.

Attachments:

Irregularly shaped items and plan. When you have an irregular sized attachment it will throw off the attachment headings. To make the attachments not have this issue you must Print and Attach through Minute Traq.

1. Open the pdf –
2. Go to FILE – PRINT – chose “Minute Traq” printer – PRINT –
3. Minute traq will open on a “file received” page. You must input the document number that you would like it attached to. Chose the correct document and hit ATTACH. When you open the attachment the file path will be tied to IQM2.com.

You have the option to deactivate attachment problem attachment without taking them off the agenda.

1. Double click attachment
2. Go to OPTIONS tab
3. Under Agendas check NONE.
4. Change name of attachment so you know is deactivated.

Creating a Distribution List**Step One: Create the Recipient**

1. Go to List
2. Recipient List
3. Right click to add NEW recipient
4. Fill in 3 required items: Name, Company (can be resident, home owner, etc), and Email

Step Two: Create the Distribution List

1. Go to List Menu
2. Click on Distribution List.
3. Right click. Select new.
4. Type in List Name. Example – Planning Commissioners
5. Under Recipients in Distribution List type in names to find user.
6. Check on box next to the name. If they come up twice just check once.

Put PDF of the Agenda Packet in the following folder R:\dropbox\Dropbox\meetings\Council

Rev 10/06/15

ATTACHMENT 8

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA

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

Section 1.

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

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

**AYES:
NOES:
ABSENT:
ABSTAIN:**

APPROVED:

_____, Mayor

ATTEST:

_____, City Clerk

ATTACHMENT 9

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA

WHEREAS,

WHEREAS,

WHEREAS,

WHEREAS,

NOW, THEREFORE, BE IT FUTHER RESOLVED, by the City Council of the City of Capitola

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 ___ day of _____, _____, by the following vote:

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

_____, Mayor

ATTEST:

_____, City Clerk

ATTACHMENT 10

RESOLUTION NO. ____

RESOLUTION OF THE CITY OF CAPITOLA ACTING AS THE SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY OF THE CITY OF CAPITOLA

WHEREAS,

WHEREAS,

WHEREAS,

NOW, THEREFORE, BE IT RESOLVED by the Successor Agency as follows:

Section ____: Effective Date. This Resolution shall take effect

PASSED AND ADOPTED on the ____ day of _____, _____m by the Successor Agency for the Redevelopment Agency of the City of Capitola with the following vote, to wit:

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

_____, Chair

ATTEST: _____
_____, Secretary

**CITY COUNCIL/SUCCESSOR AGENCY
AGENDA PACKET DISTRIBUTION
HARD COPY PACKETS (5)**

COUNCIL MEMBERS

- (1) DENNIS NORTON
ED BOTTORFF, MAYOR (EMAIL ONLY)
- (2) JACQUES BERTRAND
STEPHANIE HARLAN, VICE MAYOR (EMAIL ONLY)
MICHAEL TERMINI (EMAIL ONLY)

AGENDA MAILING LIST

GET SELF-ADDRESSED
ENVELOPES: 4 (DOUBLE SIDED)

TOTAL DOUBLE
SIDED COPIES: 35

CITY TREASURER – CHRISTINE MCBROOM (EMAIL ONLY)

STAFF

- (3) ANTHONY CONDOTTI, CITY ATTORNEY

OTHERS (DOUBLE SIDED)

- (4) CAPITOLA BRANCH LIBRARY (TOP 2-HOLE PUNCH PACKET
MATERIALS + 6 COPIES OF AGENDA) HAND DELIVER
- (5) COUNTER COPY (TOP 2-HOLE PUNCH & PUT IN CLIP BOARD)

AGENDAS ONLY:

JAMIE GOLDSTEIN, CITY MANAGER * (SINGLE SIDED)
TERRY McMANUS, CHIEF OF POLICE * (SINGLE SIDED)
MARK WELCH, FINANCE DIRECTOR* (SINGLE SIDED)
SUSAN SNEDDON, CITY CLERK * (SINGLE SIDED WITH MASTER PACKET)
COPY TO POST - COUNCIL CHAMBERS FOYER (SINGLE SIDED)
CAPITOLA POST OFFICE (12 COPIES) HAND DELIVER (DOUBLE SIDED)
MUSEUM * (SINGLE SIDED)
RECREATION DEPT * (SINGLE SIDED)
CORPORATION YARD * (SINGLE SIDED)

***PUT IN APPROPRIATE TRAYS**

*Regular meetings - blue color agenda
Special meetings - salmon color agenda
Successor Agency - golden rod color agenda*

[REVISED 12/16]



CAPITOLA MUNICIPAL CODE UPDATE – TITLE 2

October 26, 2023



Background

- ❑ Title 2: Administration and Personnel
 - ❑ Composed of 16 chapters, including chapters relating to the powers and duties of City Manager and City Council
- ❑ Regular review of City Codes is best practice
 - ❑ Can identify outdated/ineffective provisions
 - ❑ Staff conducted a review and identified several areas for update
 - ❑ Administrative Policy I-15: Agenda Preparation



Summary of Changes

- Chapter 2.04 Section 4: City Council:
 - Mayor Pro Tempore to Vice Mayor
 - Updated adjournment time
 - Removed language regarding the appointment of Standby City Council Members



Summary of Changes

- Chapter 2.04: Section 4: City Council
 - ▣ Codified current practices for public participation in meetings
 - Comments on non-agendized items during Oral Communications
 - Removing items from Consent Calendar



Summary of Changes

- Chapter 2.04 Section 7: City Attorney:
 - Updated to reflect current powers and duties.
- Chapter 2.04 Section 9: Public Works:
 - Appointment of the Public Works Director
- Chapter 2.04 Section 11: Director of Finance:
 - Removed Redevelopment Agency from annual financial reports
- Chapter 2.08: City Manager:
 - Bond requirements (2.04.080)
 - Removed dissolved commission names from 2.08.230



Recommended Action

- Introduce, by title only, waiving further reading of the text, an ordinance of the City of Capitola amending Chapters 2.04 and 2.08 of the Capitola Municipal Code.