

City of Capitola

City Council Meeting Agenda

Thursday, September 10, 2026 – 6:00 PM



City Council Chambers
420 Capitola Avenue, Capitola, CA 95010

Mayor: Margaux Morgan
Vice Mayor: Gerry Jensen
Council Members: Joe Clarke, Melinda Orbach, Susan Westman

Closed Session – 4:45 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. PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Govt. Code § 54957(b))
City Council's Performance Evaluation of the City Manager

Regular Meeting of the Capitola City Council – 6 PM

1. Roll Call and Pledge of Allegiance

Council Members Joe Clarke, Melinda Orbach, Susan Westman, Vice Mayor Gerry Jensen, and Mayor Margaux Morgan

2. Additions and Deletions to the Agenda

3. Presentations

Presentations are limited to eight minutes.

- A. Proclamation Recognizing September 2026 as Childhood Cancer Awareness Month,
Presented to Jordan Thorpe, President of the Jacob's Heart Board
- B. Proclamation Honoring Santa Cruz Regional 911 Dispatchers
- C. Presentation of the Red Cross Life Saving Award to Sergeant Scott Newton

4. Report on Closed Session

5. Additional Materials

Additional information related to an agenda item on this agenda and submitted to the City after distribution of the agenda packet pursuant to Government Code §54957.5. 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.

- A. Item 6 - Correspondence Received
- B. Item 8A - Correspondence Received & Staff Memorandum with Updated Attachment

- C. Item 8B - Correspondence Received & Staff Memorandum with Updated Attachment
- D. Item 8E - Correspondence Received
- E. Item 9B - Correspondence Received
- F. Item 9C - Staff Memorandum with Updated Information & Correspondence Received
- G. Item 9D - Correspondence Received
- H. Item 9E - Correspondence Received

6. Oral Communications by Members of the Public

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 special meeting on August 25, 2026, the regular meeting on August 27, 2026, the special meeting on September 2, 2026, and the special meeting on September 3, 2026.
- B. Elections Code Section 21130(f) Report
Recommended Action: Direct City staff and the City's retained demographer, National Demographics Corporation, to issue and post the Elections Code Section 21130(f) report.
- C. Alcohol Policing Partnership Grant
Recommended Action: Adopt a resolution accepting a Department of Alcoholic Beverage Control Alcohol Policing Partnership Grant in the amount of \$57,881 and amending the FY 2026-27 General Fund operating budget to increase revenues and expenditures by \$57,881.
- D. Update on Additional Improvements at the Park at Rispin Mansion
Recommended Action: Receive an update on progress towards additional improvements at the Park at Rispin Mansion and ongoing efforts to raise funds through an engraved brick program.
- E. Chapter 8.40: Capitola Municipal Code
Recommended Action: Adopt an ordinance amending Chapter 8.40 of the Capitola Municipal Code to remove the expiration language in Section 8.40.150(G).

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. Capitola Wharf Status Update

Recommended Action: Receive an update regarding the Request for Proposals for a restaurant and commercial marketplace project on the Capitola Wharf and provide direction to staff regarding the next steps for future uses on the Wharf.

B. Stockton Avenue Bridge and Soquel Creek Implementation Update

Recommended Action: 1) Receive an update regarding implementation of the City Council's August 27, 2026, direction, including the bridge preservation and project-development solicitation, continued community outreach, and the annual Soquel Creek inspection and coordination; and 2) provide direction regarding whether staff should continue developing the Caltrans-recommended polyester concrete overlay and return with a revised funding request, or pursue a methacrylate deck treatment as a lower-cost interim maintenance measure.

C. Underground Utility District No. 6 and Rule 20A Program Update

Recommended Action: Receive updated information regarding a potential shortened Rule 20A undergrounding project along Monterey Avenue and provide direction as desired. *(Continued from the August 27, 2026, City Council meeting)*

D. Citywide Municipal Code Amendments

Recommended Action: 1) Introduce for first reading, by title only, waiving further reading, an ordinance amending Capitola Municipal Code Title 17 (Zoning) to repeal and replace Chapter 17.88: Incentives for Community Benefits, relocate existing village hotel incentives to Chapter 17.90: Incentives for a Village Hotel with Community Benefits, amend Chapter 17.74: Accessory Dwelling Units, Repeal Chapter 9.08: Tattoo Establishments, make related amendments for Body Art Studios to Chapter 17.20: Mixed Use, Chapter 17.24: Commercial and Industrial Zoning Districts, Chapter 17.96: Supplemental Regulations, and Chapter 17.160 Glossary, and finding that adoption of the ordinance is exempt from CEQA; 2) adopt a resolution authorizing submittal of the proposed changes to the California Coastal Commission for the certification of an amendment to the Local Coastal Program; and 3) approve an administrative policy for the selection of body art service providers.

E. Fiscal Year 2025-26 Revenue and Expenditure Update

Recommended Action: Receive the Fiscal Year 2025-26 revenue and expenditure update and provide direction regarding the use of the \$1 million insurance settlement received for repairs associated with the 2023 Wharf storm damage.

10. Adjournment

The next regularly scheduled City Council meeting is on September 24, 2026, at 6:00 PM.

How to View the Meeting

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

How to Provide Comments to the City Council

Members of the public may provide public comments to the City Council in-person during the meeting. If you are unable to attend in-person, please email your comments to citycouncil@cityofcapitola.gov and they will be included as a part of the record for the meeting.

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 and at Capitola City Hall prior to the meeting. Need more information? Contact the City Clerk's office at 831-475-7300.

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

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

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 cityclerk@cityofcapitola.gov.

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 by clicking on the Home Page link "Meeting Agendas/Videos." Archived meetings can be viewed from the website at any time.

Gautho, Julia

From: John <jxmuly@gmail.com>
Sent: Friday, September 4, 2026 6:00 PM
To: City Council; City Clerk
Subject: City council meeting 9/10/2026 Section 6 Comment (Public Comment).

Peter Wilk doesn't even live in Capitola. Come on folks. Can y'all hold anyone to account for anything? You can't even address let alone solve glaringly systemic issues when they have straightforward processes already in place to address them. You just have to do the job. Such a shame the talent gap in this place.

Warmly JM

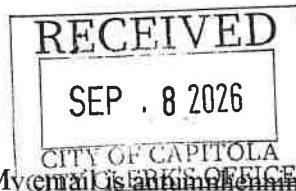
Preface to "My name is Mr. Autumn Forest Henninger, DOB 11/26/76" 10-page document.

5-14-2026

My email account became inaccessible not too long after I started sending this document which was originally an email. Every time I have tried to open another email account, I have been unable to due to online interference. Subsequently I started writing my fax number on this 10-page document and it has also become inaccessible.

All statutes that relate to the crimes described here are statues that designate these crimes as crimes. There is no statute that allows any of these crimes. What there must have been at the genesis of these systemic crimes was a conspiracy to commit these crimes by people in the government who designated their planned crimes as "approved". The "approval" of committing crimes punishable by the severest penalties in state and federal statute, legally offers no protection at all. Invoking this "approval" (I was just doing my job or following orders) will provide no protection in any legal process I have heard of, be it our civilian legal system or some sort of tribunal. For anyone involved in these crimes as a perpetrator, facilitator or permissive party, I would think, once the dominoes start to fall their best defense would be the ability to show they were in the top 5 or 10 % of individuals working to end these crimes.

Currently my biggest problem is getting food and water from grocery stores free of Noxious Nanotech and biological agents designed for my DNA. Sometimes it's only on/in the food itself and sometimes it's also airborne in the store. Water from any source, sometimes including tap (nanotech in the area around and on the spigot) is hard to get. These noxious substances are applied in collusion between the local law enforcement agency (they organize the neighborhood watch and connect to the Fusion Center), the landlord, the store itself, and perhaps with InfraGard also having input. This is clear, and although not commonplace I have been assaulted with directed energy and noxious substances by local law enforcement themselves. These noxious substances can make my lungs feel as if they have been shellacked and my blood pressure raised. They can cause shallow breathing, heart problems, stomach problems, and sleeping problems that effect overall health. The next biggest problem currently is noxious substances being put in my car, followed by these noxious substances (which also can include drugs) being used on me in any formulation or concentration by any method of application. There is no safe formula or concentration level. I was put in this program by people attempting to murder me, this continues to be their goal.



My name is Mr. Autumn Forest Henninger, DOB 11/26/76. My email is autumnhenninger@tutanota.com. I am being assaulted with directed energy, noxious substances, and sometimes armed assailants by and at the direction of various government agencies and participants in Neighborhood (Crime) Watch Programs and InfraGard. This is carried out in cooperation through Fusion Centers. These assaults are in relation to an investigation of the Mexican Mafia/Southside neighborhood gangs and associates started in late 2004. These assaults started in March 2017 in Chile with what I reported to Chilean law enforcement as ionizing radiation. This was shortly after I stated that I only left the United States so the government could do whatever it wanted with its investigation/case while I said nothing, but since I had not been left alone (by the United States government operating through proxies) since I was in Venezuela under Chavez, that I was going to return to the United States. There was (is) a pattern of the government trying to establish that I engage in any activities which could cause cancer such as drinking alcohol (they would offer me drinks and invite me to bars) or even drinking yerba mate (there was a study that said it was a carcinogen). It is their MO to try and establish anything that could be used as plausible deniability for my death, for example offering me alcohol when I'm fixing my car or trying to make it seem as if I don't have a torque wrench. I have no vices and am generally risk averse, before the aforementioned assaults started, I exercised frequently. I eat organic and avoid chemicals, perfumes, secondhand smoke and all forms of noxious substances the best I can.

I should advise you that I made sworn video declarations documenting the above description in much greater detail. By all appearances, these sworn Video declarations went into circulation. All indications are that evidence has been obtained, evidence that is no longer exclusively in government(s) possession that would prove in court the truth of what I have stated here. I am certain there are those in the government(s) who know what this evidence is. I believe this evidence includes something like government documents from Chile. Also, I should advise you that although not as brazenly or pervasively I have been assaulted with ionizing radiation in the United States in certain areas under certain circumstances. I have no doubt that I would be assaulted with ionizing radiation again should I find myself in these areas under the circumstances that lead to ionizing radiation assaults on me. You may be thinking: "if this was happening this guy would already be dead". I probably would be if the government successfully used a single lethal dose on me, like was administered to Alexander Litvinenko, but they don't like that hair falls out look. What I have seen is a death by a thousand cuts style attack. Typically, the ionizing radiation assaults are carried out with some sort of pistol like device, a blast that then forms into a cloud which dissipates more slowly or more rapidly depending on airflow. The reaction people have to it varies greatly, I have seen many many people steeped in ionizing radiation during assaults or attempted assaults on myself, some people were repeat victims which is really the tell on how someone reacts to ionizing radiation. Its similar to other noxious substances, some people chain smoke seemingly without bother until they die from cancer and others feel ill from second hand smoke and move away immediately. Some people just sit there in ionizing radiation seemingly not bothered, for the time being, and these people would only require a death by 30 cuts style attack. Perhaps you recall that Hugo Chavez repeatedly claimed the United States was trying to kill him. Hugo Chavez's hair never fell out from radiation assaults; his hair started to fall out as a result of Chemotherapy:

Chavez to Begin New Round of Cancer Treatment

Published December 08, 2015

Associated Press

.....Chavez underwent surgery in Cuba that removed a cancerous tumor from his pelvic region in June. He has not specified where the tumor was located but said the latest follow-up tests haven't detected any sign of malignant cells in his body. He said the chemotherapy is a preventive measure. Chavez has appeared with his head shaved the past few weeks after his hair began to fall out as a result of chemotherapy.

The president said during a televised Cabinet meeting on Saturday that he expects to disappear from public view in the coming days but will remain in contact with government officials and his supporters by phone and Twitter.

"In the coming hours, between today and tomorrow we'll be preparing for the third cycle," Chavez said.....

Chavez had a security team checking for radiation with a Geiger counter:

The Strange Death of Hugo Chavez: An Interview with Eva Golinger

Published December 08, 2015

Investigative journalist Eva Golinger argues that the late Venezuelan leader may have been assassinated by close aides who fled the country following his death.

Mike Whitney May 3, 2016

.....There was another, lesser-known plot against Chavez discovered in New York City during his visit to the United Nations General Assembly in September 2006. According to information provided by his security services, during standard security reconnaissance of an event where Chavez would address the US public at a local, renowned university, high levels of radiation were detected in the chair where he would have sat. The radiation was discovered by a Geiger detector, which is a handheld radiation detection device the presidential security used to ensure the President wasn't in danger of exposure to harmful rays. In this case, the chair was removed and subsequent tests showed it was emanating unusual amounts of radiation that could have resulted in significant harm to Chavez had it gone undiscovered.....

I would draw your attention to HR 2977 "Space Preservation Act of 2001"

from the 107th congress which did not pass but would have addressed the assaults/crimes being committed against me, it reads in part: (ii) Inflicting death or injury on, or damaging or

destroying, a person (or the biological life, bodily health, mental health, or physical and economic well-being of a person)--

(I) through the use of any of the means described in clause (i) or subparagraph (B);

(II) through the use of land-based, sea-based, or space-based systems using radiation, electromagnetic, psychotronic, sonic, laser,

or

other energies directed at individual persons or targeted populations for the purpose of information war, mood management, or mind control of such persons or populations; or

(III) by expelling chemical or biological agents in the vicinity of a person.

Also, S2778 114th congress the "Directed Energy Weapon Systems Acquisition Act of 2016". which in part state:

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Committee on Armed Services of the Senate noted in the report accompanying S. 1356 (S. Rept. 114-49; 114th Congress) that since 1960, the Department of Defense has invested more than

\$6,000,000,000 in directed energy science and technology initiatives, and that the Committee is concerned that, despite this significant investment, the Department's directed energy initiatives are not resourced at levels necessary to transition them to full-scale acquisition programs.....

.....(4) The Task Force believes that the range of potential application is sufficient to warrant significantly increased attention to the scope and direction of efforts to assess, develop, and field appropriate laser, microwave, and millimeter wave weapons.

I can tell you that the more than \$6,000,000,000 the Department of Defense has invested in directed energy science and technology initiatives has not gone to nothing and that microwave and millimeter wave weapons and others have indeed been fielded, unfortunately they have not been fielded appropriately. They have been fielded treasonously, as defined by 18 U.S.C §2331 Definitions:

As used in this chapter-

(1) the term "international terrorism" means activities that-

(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

(B) appear to be intended-

(i) to intimidate or coerce a civilian population;..... (targeted individuals being a civilian population).....

(5) the term "domestic terrorism" means activities that—.....same as (A), (B)(i) above.....(C)occur primarily within the territorial jurisdiction of the United States;.....

The Assaults on myself and other targeted individuals meet the 18 U.S.C 2331 definition of terrorism both international and domestic, as well as the following definition in 6 U.S.C. § 101(18):

(18)The term "terrorism" means any activity that—**(A)**involves an act that—**(i)**is dangerous to human life or potentially destructive of critical infrastructure or key resources; and**(ii)**is a violation of the criminal laws of the United States or of any State or other subdivision of the United States; and**(B)**appears to be intended—**(i)**to intimidate or coerce a civilian population;.....(targeted individuals being a civilian population)

Terrorism is Warfare.

The preamble to the United States Constitution reads: We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, 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.

The United States/California is "We the People" and Treason is the only crime defined in the United States Constitution in article 3 section 3, but it states, "congress shall have the power to declare the punishment for Treason". They have done so in 18 U.S.C 2381.

18 U.S.C 2381 Treason: Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and shall suffer death, or shall be imprisoned not less than five

years and fined under this title but not less than \$10,000; and shall be incapable of holding any office under the United States.

Also

CA Penal Code 37 Treason:

(a) Treason against this state consists only in levying war against it, adhering to its enemies, or giving them aid and comfort, and can be committed only by persons owing allegiance to the state. The punishment of treason shall be death or life imprisonment without possibility of parole. The penalty shall be determined pursuant to Sections 190.3 and 190.4. (b) Upon a trial for treason, the defendant cannot be convicted unless upon the testimony of two witnesses to the same overt act, or upon confession in open court; nor, except as provided in Sections 190.3 and 190.4, can evidence be admitted of an overt act not expressly charged in the indictment or information; nor can the defendant be convicted unless one or more overt acts be expressly alleged therein.

The enemies of the United States/California (We the People) are whomever (foreign or domestic) levies war (terrorism) on them or adheres to their enemies (which is Treason in and of itself).

A few of the many laws violated in the commission of crimes being committed against me are:

18 U.S.C §241. Conspiracy against rights

If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.

18 U.S.C §242. Deprivation of rights under color of law Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

18 U.S.C §2382. Misprision of treason

Whoever, owing allegiance to the United States and having knowledge of the commission of any treason against them, conceals and does not, as soon as may be, disclose and make known the same to the President or to some judge of the United States, or to the governor or to some judge or justice of a particular State, is guilty of misprision of treason and shall be fined under this title or imprisoned not more than seven years, or both.

18 U.S.C §1584. Sale into involuntary servitude

(a) Whoever knowingly and willfully holds to involuntary servitude or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, shall be fined under this title or imprisoned not more than 20 years, or both. If death results from the violation of this section, or if the violation includes kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be fined under this title or imprisoned for any term of years or life, or both.

(b) Whoever obstructs, attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be subject to the penalties described in subsection (a).

Based on my and other targeted individuals experience 18 U.S.C 1584 is applicable because targeted individuals brains are mapped and fed into an Artificial Intelligence computer which has the ability to recognize the targeted individuals thoughts, emotions, and biological activity. There is a bio feedback loop between the targeted individual and the Artificial Intelligence. Probably you have heard of cases of AI software development companies getting into problems for scanning copy written books into their AI software. The AI targeted individuals are connected to scans humans into itself. The AI increases or decreases the Intensity of assault on the targeted individual based on many factors. Targeted individuals conform their thoughts, behaviors and actions attempting to lessen the assaults on them (directed energy and otherwise). Some of what I have explained here is similarly explained By Dr Robert Duncan and an electronics engineer named Dave Chase. In my experience this system functions largely on nanotechnology being introduced into the body of the targeted individual which acts like a transceiver for the directed energy. The following descriptions are somewhat similar to my experience:

AI makes non-invasive mind-reading possible by turning thoughts into text

This article is more than 2 years old Advance raises prospect of new ways to restore speech in those struggling to communicate due to stroke or motor neurone disease

The Guardian

Hannah Devlin *Science correspondent*

Mon 1 May 2023 11.00 EDT

Share

An AI-based decoder that can translate brain activity into a continuous stream of text has been developed, in a breakthrough that allows a person's thoughts to be read non-invasively for the first time. The decoder could reconstruct speech with uncanny accuracy while people listened to a story – or even silently imagined one – using only fMRI scan data. Previous language decoding systems have required surgical implants, and the latest advance raises the prospect of new ways to restore.....

also from psypost.org:

Home Exclusive Artificial Intelligence Researchers combine AI and fMRI to predict the emotional relevance of spontaneous thoughts

by Eric W. Dolan

September 17, 2024

A new study led by researchers from the Center for Neuroscience Imaging Research in South Korea and Dartmouth College has revealed that brain activity can predict how people emotionally experience their thoughts. Using brain scans and personalized story narratives, the team developed a method that combines brain imaging with machine learning to decode the emotional aspects of thoughts in real time. The research was published in the Proceedings of the National Academy of Sciences.

This mind reading bio feedback loop torture, including my genitals, and the aggravation and injury of my numerous orthopedic problem areas (this is injurious to all healthy joints also) due to directed energy, as well as all of the types of assaults violates everything in the first section of the first article of the California Constitution:

We, the People of the State of California, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this Constitution.

ARTICLE I DECLARATION OF RIGHTS [SECTION 1 - SEC. 32]

(Article 1 adopted 1879.)

SECTION 1. All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and privacy. *Sec. 1 added Nov. 5, 1974, by Proposition 7. Resolution Chapter 90, 1974.)*

Universal Citation: CA Constitution art XX § 3

SEC. 3. Members of the Legislature, and all public officers and employees, executive, legislative, and judicial, except such inferior officers and employees as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation:

I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.....

18 U.S.C § 241, § 242, and § 1584 subject the perpetrators of these crimes to the possible application of the severest penalties in the legal system due to aggravated sexual abuse (as stated in Jovanka Bickle's letter from the Richmond city council, other targeted individuals (T.I.'s) I have heard, and also my experience) because directed energy hits the TI's genitals. In my case specifically (I can't speak for all other T.I.'s on this matter) due to an attempt to kill (ionizing radiation). Being hit with non-ionizing radiation I believe is cancer causing in the long term, it certainly degrades the health, it is torture on a sliding scale depending on intensity level and type used but the perpetrators of these crimes will claim this is non-lethal weaponry. compared to ionizing radiation it is unless the perpetrators successfully drive a victim to suicide or a mass shooting which seems to be their goal (as stated in Dr. Daniel Lebowitz presentation to the senate, Mayron May etc..) but there is no discussion in the scientific community about whether or not ionizing radiation is cancer causing, it simply is. It depends on many factors if someone dies from it, do they sense it and move away, are their habits healthy (diet and exercises), do they have any vices. Fortunately I was in world class excellent shape when this started in Chile (since I couldn't work much because of the attempt to build a tax case against me, I exercised a lot instead), I had no, nor do I have any vices and I quickly figured out I was being assaulted with ionizing radiation and had all the factors for survival in my favor. I am of course well below the poverty line in California due to the extremely limited income opportunities associated with having to move around all the time trying to limit the assaults on me, my property, and any food I could buy in a store or pick from a tree (all of which

becomes noxious). The government/nongovernment perpetrators of these assaults on me like to portray my poverty-stricken movements (attempting to lessen the severity of the assaults on myself) as me just doing what I love, travelling. These noxious substances are designed for the targeted individuals DNA, being inert to all others. This allows these noxious substances to be applied to or put in any product anywhere in the chain of custody from manufacture to retail through the various businesses participation in their neighborhood watch program or InfraGard. In some areas mice are put into the engine compartment of my car and they make their way through the firewall area to the inside. The mice cause damage by chewing wires but also have a noxious substances applied to them which contaminates my possessions which then have to be put in the trash. My vehicle has had the trim above windows cut into causing them to leak and I found my oil pan drain plug turned out just shy of the leaking point.

The nature of this ongoing 21 year "investigation"

Rather than just playing it straight and prosecuting their case the government started committing crimes pretty much immediately. They tried to get money marked as proceeds from illegal activity into my possession through a variety of means including as payment for a Ford Bronco. I would only except payment by money order with "for Ford Bronco written on it" I wrote this into a brief sales agreement which caused the governments proxy to lose interest in selling the Bronco, the proxy facetiously said, "I will have the buyer write for Ford Bronco and not narcotics on the money order". The proxy had already refused my offer of placing an ad in the newspaper (solely at my expense) and said he wanted to advertise online only. With the sale foiled the government then apparently pivoted to a plan to plant narcotics in the Bronco. Their proxy (my friend who had been busted for mortgage fraud surly, since he told me what he did previously) warned me about it and I moved the Bronco off the street. I then consulted an attorney and tried to have an ad placed in the Sacramento Bee but I was told they would not run such an ad. I had the ad placed in the Sacramento news and review and it also ran in the Chico news and review. The add was not exactly what I had written it was a bit jumbled but it did state my initials AFH and my month and year of birth 11/76, as well as something to the effect that the government was attempting to plant narcotics or marked money on me or otherwise incriminate me in crimes of which they knew I was innocent. This ad ran in 2005. I have no doubt that on more than one occasion the government attempted to get me killed by directing their proxies to try and get me to change my course and put me in a position where waiting would be assigns under surveillance could kill me. While I have no doubt it happened more than once I'm sure it happened at least once because the government's proxy (my ex-housemate) told me about it a bit after attempting to get me to go to the spot (unsuccessfully) where the would-be assassins were waiting for me. The Government had done something similar a few years earlier during an investigation dubbed "Operation Black Widow" when on May 21, 2001 law enforcement surveilled the situation at Caps Saloon in old town Salinas while Armando Frias called Roque "Boxer " Martinez and asked him to bring a gun he then used to shot Ray Sanchez in the Back of the neck. I recall that Frias's Attorney found out that the government surveilled the whole situation and did nothing to warn Sanchez of his impending death. Frias's attorney was then able to make a deal with the government to get Frias a life sentence rather than go to trial and face a possible death sentence due to his having discovered this info. I have no information that the government caused Sanchez's encounter with his assassin as they attempted in my case but if they did lure Sanchez to his death they got away with it because Sanchez is unable to comment, being dead. His death (circumstances left completely undiscovered) would have strengthened the government's case. My death would have strengthened the government's case also. The government would have then had a free hand to invent whatever scenario best suited their ends in presenting their case without having me around as a loose end to possibly cause them problems as they subverted the justice system.

Most of this 21 year "investigation" consists of the government attempting to force me into situations where I will have to break some/any law, rule, or regulation and since 2017 using torture as a means of forcing me to or preventing me from doing whatever it is they want or don't want me to do. I'm the only person I know of who is not being directed by the government, this is why I don't talk to anyone at all unless it's a necessity or occasionally a one-time exchange, I have no personal connections with anyone

anymore because I'm only ever talking to some government employee or contractor for some company participant in the neighborhood "crime watch" program or InfraGard. There have been instances of classifying me as female that I have never experienced before, I am male and have never ever classified myself as anything other than male. Perhaps there is a plan to portray me as transgender as an explanation for my being single and childless. I believe this first occurred after I explained my grandfather wouldn't call me Autumn because it's a girl's name. Things like this commonly occur, I give these perps an idea and they run with it. They always seek to cover up the crimes they commit.

They obviously never want me to work my profession, unless I first go through a training course so they can point to how I learned my work or at least to beg for a chance as an apprentice, the truth is I am excellent at my work. Unfortunately, I can't stay in one place long enough to comply with the requirements to get the license in California or anywhere because I have to move all the time to lessen the assaults on myself. It was also a license issue that forced me out of the US years before, again a situation that seemed impossible to remedy because I have physical limitations (I'm disabled if I don't take care of myself and do work that's suited to my limitations or that I can choose which jobs I take or spend more time to complete tasks). I'm sure I could have passed whatever test to get the license. It seems the government should stick to identifying actual crimes with victims, then investigating and prosecuting rather than just endlessly camping out on someone like vultures (now international vultures with cattle prods, prodding me into impossible situations that I still manage to get through but at the expense of sucking my whole life away. The situation with everybody is like invasion of the body snatchers anyone I know or talk to is somebody(s) else. The government and non-government players here are not a monolith some want to do one thing others something else and they come to a consensus based on certain factors. I've been prevented from/forced into having a Driver's license in one state versus another. The CA franchise tax board told me they filed 3 tax liens based on nothing other than their claim that I had a city business license (which they renew automatically for a number of years), that is they had no indication of either income or expenses. One of the first questions I recall the tax board rep asking me was if I was in the US during their tax assessment years, I told the reps the onus was on them to prove a crime or violation, to show income or expenses. They billed me over \$5000. I spent a lot of time dealing with this. By all appearances it was (is) all part of this ongoing 21 year "investigation". I ended up making a complaint about it and sending the FTB the appeal of Blair S Bindley. I got a "we can't comment" response to my complaint and I haven't heard anymore from them. This tax bill seemed to coincide with my name appearing online from a background check company as guilty of something in a laundry list of possible crimes from sex offender to unpaid ticket or debt. I have been written a fix it ticket which was simply never turned in making it unpayable. I checked on it many times, apparently it is material for the online laundry list smear of my reputation.

In Venezuela, when Chavez was finally murdered, I had to switch the type of work I was doing so I could work under another's business license. Mind you I was an undocumented immigrant at the time, still the government was trying to build a tax case against me. Murdering a President is an effective way of getting cooperation from his former Vice President. Prior to my career switch the government was rolling my clients who either worked with them to bust me or attempt to just make me look bad (for example making it hard for me to return books lent me so they could say I was a book thief). I still did not want to return to the United States; I hoped someday the US government would conclude their "investigation" and try their case. In Chile I did The paperwork and paid the fee (which was expense because it's the same price a Chilean pays in the US) for a visa. I was approved but simply never given the visa so I couldn't collect or pay taxes, which nobody I worked with did with no problems, it only seemed to be a thing in the good areas, same as in Venezuela. I often lived in poor areas that many people would not want to even go to out of concern for their safety. I lived in these areas out of economic necessity due to my own poverty created by the government being camped out on me trying to build a tax case or whatever case against me. This limits my income, then as now, unless I just want to live life and get busted like seemingly everybody else does. The government always wants to paint the picture I was running around South America (and now the US) in poverty due to "my love of travel". The truth is I was looking for any place I would be left alone or at least less bothered by the government. In Chile after my visa was

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approved but never given to me the government tried to establish that I simply didn't want to collect or pay the taxes and build a tax case against me. So, I worked little in order to foil the tax case. This led me to explain to the government through their various proxies that I would not say anything about their investigation or case, and I would never return to the United States. I told them I hoped they were successful so this would all be over and I could get my life back. For perspective, I could have made video declarations years earlier in the United States, the government had already committed many serious crimes in their "investigation," but I did not because I thought it was best to just stay out of their way so they could get what they want, I had been attempting to appease them for years at this point, I never wanted to leave the United States at all. Any country I've been in no matter how dangerous or poor the economy is far far better than the US with the government continually camped out on me for years. And this was before the directed energy and noxious substance assaults on me started, as is the case now.

There is a consistent pattern of members/participants in these "Crime Watch" programs accusing me of being a pedophile and they seem to really believe it, this includes the people speaking through neighborhood watch members either using a tiny earpiece and camera or as increasingly seems to be the case, using other technologies such as the device that induces sound in the head using microwaves (US patent 4877,027) which I included in this email as an attachment. I have increasingly explained to neighborhood watch members, and at the same time those who are speaking through them the real story which has over the years led to a reduction in the number of pedophile accusation events, but they still persist and can sometime be a danger. To be clear I'm not a pedophile. I've never been arrested and have no criminal record apart from rare routine tickets which when they have occurred generally do not seem naturally occurring. They are usually a chance to ask me questions. The most frequently asked is do I have a CA driver license, and on more than one occasion recording my license and address as appears on my old CA driver license despite my explaining I don't have a CA driver license and handing over a valid Nevada driver license. To be Clear I got that California Driver license in 2017, I'm not sure exactly why that expired license is such a subject of interest. I was Long Prevented from getting a California driver license by torturing me with directed energy as usual or common tactics like disconnecting my calls to DMV after being on hold over an hour. I have only recently been able to get a CA driver license because my Nevada driver license finally expired. The address I entered for my current CA driver license was changed from perfectly legible when I entered it into something nonsensical at the next screen where the DMV employee has the customer review the information and it had to be changed back to what I had entered. One reason I was stuck with the Nevada Driver license so long was I went to the Nevada DMV for vehicle registration; it was the end of the day for DMV. The last time I remember seeing my Nevada Driver license was in the hand of the woman helping me at the DMV. I realized just outside the door I didn't have my driver license. I turned to reenter, but the door was locked, the guard said the woman said she didn't have it and they didn't see it on the ground, they would not let me in. The next day the woman said she didn't have it, it was nowhere to be found, I had to get another Nevada driver license and the expiration date started anew extending the governments game with my licensee some years. I believe this license ploy was partly to keep the address from my old California license in the In the DMV and law enforcement systems since that address falls within the Jurisdiction of the Us Attorney -Eastern District of California and the Sacramento Fusion Center. This is the jurisdiction where the majority of the crimes committed by the government some 21 years ago took place. Perhaps this license ploy is so they can cling to "jurisdiction" over me.

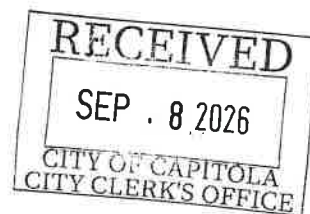
here is a list of documents I have included as attachments:

1. the March 14, 2014, affidavit of ex FBI Agent Geral W. Sosbee
2. United States Patent Number 4,877,027 Date of Patent Oct. 31, 1989 (sound is induced in the head by radiating the head with microwaves)
3. United States Patent number 7,784,390 B1 Date of Patent Aug 31, 2010 (solid State non-lethal directed energy weapon)
4. letter from Richmond City Council Dated May 6, 2015, by Jovanka Beckles addressing the crimes I reported and the systematic coverup of such crimes, as reported by

crimes I reported and the systematic coverup of such crimes, as reported by citizenry to her, 2 pages. 6. Presentation submitted to the Senate Hearing on "The State of Civil and Human Rights in the United States" on Tuesday December 9, 2014, by Dr. Daniel Lebowitz, 10 pages. 7. January 14, 2019 article: Kevin Douglas Limbaugh kills Davis cop + Limbaugh's suicide note, 1 page 8. New Games, Same Aims: CIA Organizational Changes, an interview of Author Douglas Valentine by Guillermo Jimenez of De-Manufacturing Consent, 11 pages. 9 Article dated August 27, 2010 titled: secretly forced brain implants Pt111: Ex-SS, FBI contractor defends targets, featuring former United States Marine Corps Criminal Investigator, Secret Service and FBI intelligence contractor William ("Bill") J. Taylor, 6 pages. 10. https://en.wikipedia.org/wiki/Operation_CHAOS about operation CHAOS or MHCHAOS, 4 pages. 11. Homeland Security: The Phoenix Comes Home to Roost by Douglas Valentine, 10 pages. 12. Creating a Crime: How the CIA Commandeered the Drug Enforcement Administration by Douglas Valentine, 6 pages 13. AP article by Susan Bryan, Jim Mustian, and Joshua Goodman dated June 29, 2026: New Mexico governor says state could seek billions after DEA let fentanyl hit streets, 2 pages 14. Article by Douglas Valentine: Flight of the Phoenix from Vietnam to Homeland Security, dated August 25, 2022, 7 pages 15. Page one of petition: 3,500+ architects & engineers call for new investigation of destruction of the 3 world trade center skyscrapers on 9/11/2001, from AE911Truth.org, 1 page. 16. Unclassified Memorandum For The Secretary Of Defense subject: Justification for US Military Intervention in Cuba known as operation NORTHWOODS, 15 pages. 17. Homepage for <https://honorlibertyvets.org>, 4 pages. 18. "A New Pearl Harbor" December 16, 2002 article by John Pilger, 3, pages. 19. Bio of Edward Lansdale from spartacus-educational.com, 22 pages. 20. synopsis of OPERATION MONGOOSE from spartacus-educational.com, 5 pages. 21. Consent Resolution adopted by the Human rights Council of the United Nations General Assembly on 6 October 2022 51/3 Neurotechnology and human rights, 2 pages. I quote from this resolution "Framework sets out that States have a duty to protect and that business enterprises, including technology companies, have a responsibility to respect human rights. Bearing in mind that Neurotechnology allows the connecting of the human brain directly to digital networks through devices and procedures that may be used, among other things, to access, monitor and manipulate the neural system of the person."

I have no reason to question the veracity of the attached documents other than the perpetrators of these crimes against me generally interfere in whatever I'm doing and regularly hack into whatever computer I'm using to erase or change the contents of my emails. You could easily ascertain the veracity of the documents. Just in case the documents attached to this email are sabotaged altogether I have copied and pasted one below.

By stamping below receipt of the above listed documents numbered 1-21 is acknowledged.



Presentation submitted to the Senate Hearing on “The State of Civil and Human Rights in the United States”

Tuesday December 9, 2014.

My name is Dr. Daniel Lebowitz. I'm a medical doctor. Over the past two years, I have worked with a Human Rights organization called Freedom From Covert Harassment and Surveillance, or FFCHS. People in this organization state that they are being targeted by an illegal and unethical government program that represents a modern version of COINTELPRO and MK-ULTRA combined. These victims call themselves **targeted individuals, or T.I.'s**.

I have worked with the leadership of FFCHS, and I have worked with the medical committee as well as with the Board of directors. As a result, **I have communicated with hundreds of self-described targeted individuals.**

Additionally, I have worked with two other activist physicians on behalf of targeted individuals: Dr. John Hall and Dr. Terry Robertson. **I have also worked with Dr. Robert Duncan, a scientist turned whistleblower, who states that he has worked on some of the very weapons systems that are used in the remote electronic harassment that many targeted individuals say they experience.**

My presentation today is entitled:

Targeted Individuals: Covert Repression in the 21st Century

OVERVIEW

To understand the Targeted Individual phenomenon, you need to understand several things about it. You need to understand the societal and political and human rights trends which allow it to occur. You need to understand what the program is. You need to understand what the goals and the purpose of the program are. You need to understand who gets targeted. You need to understand where the program came from, in other words, compare it to counterintelligence programs and unethical human experimentation of the past. And you need to understand the implications of the program, and what it means for the future. Finally, we'll take a look about what must be done about it.

STATE OF HUMAN AND CIVIL RIGHTS IN THE US: THE EMERGING POLICE AND SURVEILLANCE STATE

In the United States, in short, we are seeing the emergence of a police and surveillance state. Former **President Jimmy Carter** recently wrote in the *New York Times*, **“The United States is abandoning its role as the global champion of human rights.”** In his article, Carter points out that top US officials are now **openly targeting US citizens for political assassination, “disappearance,” unlimited surveillance, and other forms of gross human rights abuse.** Are people prepared to call a former U.S. President a conspiracy

theorist? Or has the U.S. strayed far from its roots as a democracy where rule of law and human rights are uniformly respected?

THE PROGRAM

What is the Targeted Individual program that these people are complaining of? It is many things all at once. It is a discrediting and disruption campaign, similar to COINTELPRO. In some cases (not all) it is a torture/trauma-based brainwashing and mind-control program like MK-Ultra. It is a secret form of repression, persecution and psychological warfare, carried out in the community largely by regular people, along the lines of Stasi or Zersetzen torture. It is a political abuse of psychiatry, as has been carried out in many countries as a way to torture and discredit dissidents. Finally, it is unethical non-consensual human experimentation on unwitting subjects with advanced directed energy and psychotronic weapons systems.

Overall, it represents a coming together of the most vicious and effective tools and weapons for covert harassment and political control of dissidents, activists, whistleblowers, agitators, and other so-called "undesirables" that the world has ever seen.

What are the goals and purposes of the program? Again, they are many. **But, in a word, the neutralization of the target.** Let's start with understanding the mindset of the state.

President Obama's information czar, former Harvard Law professor Cass Sunstein, co-authored a paper in 2008 which advocated that the government should "cognitively infiltrate" and "disable" those who have ideas the government finds threatening, for example, 9/11 truth activists. **Now, at a minimum, this suggests running illegal COINTELPRO-type disruption campaigns against people.** But, more interestingly, let's parse the words carefully: "cognitively infiltrate" and "disable". Cognition refers to the mind, or to thought. Infiltrate means to penetrate with hostile intent. **So, literally, this means to penetrate the minds or thought processes of so-called "troublesome" individuals, with the intent to disable them. Fascinating, in light of what targeted individuals say that they experience.**

So, more specifically, what are the goals of the program?

1. Force the target to stop "unacceptable" activity (whistleblowing, activism, exposing corruption, etc.). Silence the target both about their original activism and about their targeting.
2. Subject target to noise campaigns, swarming, colors, or repetitive behaviors as a form of harassment.
3. Attack any psychological weaknesses. Cause target to blame themselves for their targeting and as such destroy the will to fight back.
4. Create a track record of so-called "mental illness", useful for both discrediting and plausible deniability.
5. Discredit the target.
6. Isolate the target from all forms of support using secret notifications, slander, and covert harassment carried out largely by regular people.
7. Encourage the target to lose hope and lash out in suicidal or homicidal rage secondary to covert harassment, and destruction of the target's life.
8. Set target up for possible institutionalization or arrest.
9. Damage or ruin the career and/or finances. In some cases, break up the family. In

some cases, cause the target to lose their home.

10. After breaking the target's will to fight, in some cases, attempt to change the mindset, politics, ethics of the target. Create a mindset more useful to the state. Evaluate the potential for corruption or even recruitment.
11. **To summarize: the goal is the neutralization of the target. Exactly the goal pursued by the former COINTELPRO.**

THE TARGETS

Ok. So, who gets targeted by this program? There's a lot of overlap with COINTELPRO. COINTELPRO targeted "Perceived threats to the Established Political and Social Order". Which, in practice during COINTELPRO meant primarily those pursuing greater social and economic equality, peace activists, dissidents, so-called "unfriendly" politicians, and even non-conformists. In some cases, it can be proven that counter-intelligence operations have been undertaken against those aware of high-level criminality or wrong-doing. Like everyone else, many targets have weaknesses, foibles, flaws, problems, etc. Some have addictions. Any perceived weaknesses (manufactured, real, or exaggerated) are used viciously to aid in the discrediting of the target. Let's learn from some actual examples of people who became targets for covert operations:

1. **Thomas Drake**, NSA Whistleblower: **Forced out of his job, blacklisted, financially ruined, forced to defend himself against criminal charges, placed under physical and electronic surveillance.**
2. **Jean Seberg**. Actress and civil rights activist. Supporter of the Black Panther Party. Experienced FBI **Surveillance, harassment, stalking, break-ins, intimidation, defamation and discrediting.** Victim of a false FBI story that she was pregnant by a Black Panther Party member, while married to a white husband. The stress of this caused premature delivery of her baby, which died at 2 days of age. The baby was white. Eventually committed suicide.
3. **Arnold Lockshin**. A Cancer researcher and supporter of socialism. **Experienced surveillance, harassment and threats by strangers, break-ins, psychological warfare, implied death threats through the 1970's and 1980's. Eventually sought asylum from Russia and was immediately fired, blacklisted, accused in retrospect of mental instability and deteriorating work performance. Notably, reported that even his children's classmates and his own father had been brought into a Stasi-like campaign against him and his family.** Wrote a book about the ordeal in 1988 called "Silent Terror: One family's history of political persecution in the US." The book was never published or distributed in the US. On the web: ArnoldLockshin.Wordpress.com. By the way, his work performance and mental stability in Russia are apparently just fine.
4. **Adrian Schoolcraft**. Blew the whistle on corruption, wrongful arrests, arrest quotas, and the stop and frisk program within the NYPD in 2009. **Received on the job harassment and was shunted to the NYPD psychologist. Within 3 weeks after reporting corruption he was involuntarily committed to a psychiatric ward, handcuffed to a bed and prevented from using a telephone. He was portrayed as paranoid during his hospital stay, which lasted 6 days. After discharge, he was suspended from the force without pay. Tapes he had made were eventually reported by the New York Times and others and he has been largely vindicated.**
5. **Dr. Lawrence Doerr**. Orthopedic surgeon. As reported in the NY Times, wrote an

open letter to fellow surgeons in 2008 warning about a flawed hip prosthesis.

Subsequently **became the target of a whisper-campaign that questioned his skills and competence as a surgeon.**

6. **Russell Roderick.** Insulted a powerful, politically connected firm by refusing continued employment. Unclear if he was aware of high-level wrong-doing. Has been the target of a 25 year, **multi-national campaign (you will find that these programs are multi-national and follow targets wherever they go) including slander, character assassination, allegations of incompetence, paranoia, drug-addiction, sexual deviance, and being "a deranged, suicidal maniac."** Has experienced **blacklisting, financial devastation, isolation, stalking and overt surveillance, street theater, telephone/computer and mail tampering, Stasi-like manipulation of people into a campaign against him, death threats, intimidation, harassment, and a shut-down of all avenues of support.** He refers to this as Zersetzen torture. On the web: Zersetzen.wikispaces.com.
7. **Greenham Common Women's Peace Protestors.** In the 1980's, were protesting the presence of US cruise missiles at an English air force base. **Came under microwave weapon attack in 1984. Scientists from Electronics Today demonstrated the presence of electromagnetic waves.** Dr. Robert Becker, twice nominated for the Nobel prize, found their symptoms were consistent with exposure to a microwave weapon. Every time a cruise missile convoy was ready to drive by, these women were experiencing severe headaches and unbearable fatigue, etc.
8. **Andy Lewis and friends.** A group of former British soldiers. Became targets of full-on gang stalking in 1996 after attempts to draw attention to what they viewed as an unethical experimental vaccine program that had been given to Gulf War soldiers in 1991. These men have experienced **blacklisting, covert harassment, directed energy and psychotronic weapons attacks, overt and covert surveillance, stalking, secret notifications, etc.** They have made two excellent websites: targeted-individuals.com and gang-stalking.com.
9. **A long list of 9/11 truth activists** have reported being **targeted with electromagnetic weapons and death threats.** Some have died under suspicious circumstances. US Army Major Doug Rokke, PhD physics from University of Illinois, former head of the US Army depleted uranium cleanup project after Gulf War I, says these weapons are very real, and commonly used in military circles. He has described how he personally used such weapons on a regular basis while training with Special Forces at US Army facilities: "We had them van-mounted, truck-mounted, plane-mounted, and hand-carried. We would go around zapping each other for fun. This was during exercises, or sometimes just as a practical joke." Rokke further stated that, based on his firsthand knowledge of US military mind-set and capabilities, 9/11 truth activists have undoubtedly been **targeted by exotic non-lethal (and lethal) weapons.** Remember again Cass Sunstein, who openly advocated cognitive infiltration and disabling of 9/11 truth activists. Is he talking about psychotronic weapons attacks?
10. **Jill Hansen.** Professional surfer, model and entrepreneur. She received wide acclaim for her performance in a TED speech in 2010 about her spiritual values and altruistic beliefs, Entitled "Open Mind, Open Heart". In the talk she espouses values including compassion, honesty, integrity, generosity, belief in God, charity, hope, faith and love. She concludes by stating that the world would be a more beautiful place if we all thought this way. **Within weeks after this talk, which received a lot of publicity, she found herself the victim of stalking and electronic harassment.** Fast forward

a few years. Unfortunately, In May 2014, she was charged with attempted homicide for allegedly running over a woman intentionally with her car. TI's report that attempting to get them to act out inappropriately with strangers is a common protocol. A couple interesting facts: 1) **none of the news stories mention that she considered herself a TI and 2) Interestingly, The local Neighborhood Watch Group's 500 members had been alerted about Hansen—supposedly for reckless driving. A representative of the group was reported as saying, "We need everybody to be on the lookout for her, it's that scary." So here we have someone reporting being a victim of organized stalking, and it turns out that—HELLO—there was a group of at least 500 people deliberately on the lookout for her.**

11. **Ted Gunderson.** Worked for the FBI from 1950 – 1979. Former head of the Los Angeles FBI, where he was in charge of 700 personnel and had a budget of over 22 million dollars. **In 1979 he was one of a handful interviewed for the job of FBI director, which ultimately went to William H. Webster.** He retired and started a private investigation firm. He became a whistleblower and eventually filed an affidavit in support of attorney and targeted individual Keith Labella in his FOIA request from the FBI regarding gang stalking. Gunderson explained: **"It is my professional opinion based on information, knowledge and belief that the information sought by Mr. Labella in this FOIA suit regarding gang stalking...reasonably describes an ongoing, active, covert, nationwide program that is in effect today and...has been in effect since at least the 1980's...[and] has increased in scope, intensity and sophistication by adapting to new communications and surveillance technology."** As a whistleblower, Gunderson was himself targeted. He experienced whisper campaigns, surveillance, phone tapping, computer hacking, poisonings, group stalking, aerial stalking and more. **Stated that based on his experience, victims are targeted for a variety of reasons including government and corporate whistleblowers, parties to financial and employment disputes, parties to marital disputes (usually divorced women), and even jilted paramours. Journalists covering controversial issues, and, even attorneys and private investigators representing unpopular clients or interests.** Gunderson's affidavit can be viewed on the internet, and in my opinion, is a fascinating read.
12. **William Binney-** An NSA whistleblower. **Has stated he is well-aware of mind control technologies.**
13. There has been a steady increase of **mass shootings** every year since 2000 from 5 per year until now, about 16 per year. Many of them were complaining of electronic harassment and/or organized stalking, stating that this led them to attack. This is being largely ignored and/or covered up by the media. **Does a faction of our government actually want gun violence in the US, perhaps as a pretext to reversing gun rights, or even individual rights in general?** Let's discuss 3 mass shooters.
14. **Jiverly Wong-** Chinese Immigrant. Reported being targeted with covert harassment for 18 years. Reported experiencing: stalking, harassment, chemical attacks, nausea, shortness of breath, job harassment and job loss, spreading of rumors, phantom touching at night while sleeping, home entry and theft of funds from his home, vehicular stalking and harassment, electronic body shocks. Became a mass shooter of 14 people including himself. Blamed his harassers for the killings. **Paranoid? Or victim of a high-tech covert operation that he could not even begin to understand? Let's not forget that some goals of COINTELPRO included trying to get people to commit suicide (e.g. MLK) or trying to get people to commit serious crimes (e.g. Black Panther Party members) in order to discredit and**

destroy them.

15. **Aaron Alexis**- Ex-Navy veteran. Navy yard shooter. Contacted FFCHS stating he was under ELF weapons attack and was being stalked and surveilled, and he believed this was at the hands of the Navy. Interesting things about his case. **1) Although he corresponded with FFCHS, thus identifying himself as a TI, and stating his belief that the Navy was attacking him, the FBI after investigating and speaking with FFCHS Board members, insisted that he was a random shooter with no motive.**
2) A heavily armed SWAT team was in the vicinity of the Navy Yard when Alexis started his shooting rampage and was on site within 5 minutes. Inexplicably, they were ordered to stand down and leave the area. The shooting rampage subsequently went on for 45 minutes.
16. **Myron May.** A promising, young black attorney. Worked first for a well-known law firm and subsequently trying to help disadvantaged children. Cared about people and about God. Reported being recently targeted with directed-energy weapons and law enforcement harassment. Decided to draw attention to the abuse by mailing packages of information to 10 people, shooting people, and "suicide by cop". **He made his goal clear by ending his letter saying, "what targeted individuals need more than anything is media attention." These packages were confiscated by Federal agents.** His suicide note described, "financial, emotional, and psychological pain....a living hell" inflicted upon him as a targeted individual. He stated: **"Our government is able to capitalize on [the] lack of knowledge among the general population to curb sentiments toward questioning the mental health of targeted individuals rather than admitting the truth: that there is a system of covert torture of ordinary innocent citizens that is happening within our borders."** He believed there was no hope for him and so he stated, "Consequently, I am making a sacrifice so that others in my same position might have a chance at a normal, harassment-free life." **He shot three people. None of them died. I wonder if, even when driven to extremes by secret government torture, whether he was still too moral to bring himself to kill...**

Ok, so we know who it happens to. We know this is the most sophisticated take-down program the world has ever seen. So, where do all these tactics and techniques come from? Well, as I mentioned before, a look at historical programs is highly instructive here.

RELEVANT HISTORY: COINTELPRO, MK-ULTRA, STASI / ZERSETZEN TORTURE

So- COINTELPRO. Known tactics included: Discrediting, smearing, character assassination. Covert campaigns to destroy interpersonal relationships, Harassment, Conspicuous surveillance (also known as stalking), anonymous letters and phone calls, IRS tax audits, legal harassment, Manipulation or strong-arming of parents, employers, landlords, school officials and others to create problems for targets. Threats, intimidation, surreptitious home searches and "black bag" jobs, vandalism, Constant surveillance.

MK-ULTRA features and goals included: Create a subject who is easier to control and manipulate, create programmed assassins, develop more effective means of torture and interrogation, break down the personality of the subject and insert new belief systems, ethics, politics, personality traits; performed on unwitting and unwilling subjects; manipulate mental states and alter brain function; surreptitious drugging; isolation; verbal and sexual abuse; various forms of torture employed; promote illogical thinking and impulsiveness in the subject

so that they will be discredited in public; attempt to produce amnesia for periods of time; surreptitious production of shock or confusion in subject over extended periods of time; attempt to alter the subject's personality to become dependent on the tormentors; attempt to lower the subject's ambition and work efficiency; attempt to impair eyesight and/or hearing; attempt to activate specific behavior by remote means.

Stasi tactics, also known as Zersetzen torture, included such features as: secret persecution, secret methods of control and manipulation, involved even the personal relationships of the target, extensive use of unofficial collaborators--also known as regular people; used the State's influence to turn public and private institutions against the target, psychological attack intended to deprive the target of the ability to mount hostile political action, often causes irreversible damage to the target, attempt to gain influence over the target in such a way that undesirable attitudes and beliefs would be slowly changed to more preferable traits over time, Attempt to cause fragmentation, paralysis, disorganization and isolation of target, Attempt political and ideological "re-education", used in situations when judicial procedures are not convenient for political reasons, a.k.a. extrajudicial punishment, attempts to frame or entrap targets, slander/character assassination involving some true and some false, but always degrading information, orchestrating a series of social and professional failures in order to damage self-confidence, creation of doubts about future, stimulation of mistrust or paranoia, exploitation of target's personality weaknesses, addictions etc., shaming due to the spreading of rumors to those around the target, overt and covert surveillance, intercepting mail, calls, etc., tampering with property and vehicles, poisoning the food and tampering with medications, entering the residence and leaving traces of evidence in order to threaten or intimidate the target by adding removing or modifying objects.

The items on these lists will sound very familiar to targeted individuals. Nearly all of them apply to the current program. And nearly all of them are reported by Targeted Individuals. I have no reason to not believe them. Now, add in the use of advanced directed energy and neuro-weapons, and you have a very potent takedown program.

THE WEAPONS

Ok so at this point we have a pretty good understanding of the program. But there's one more thing that needs to be understood about this program. The advanced weaponry that is being used.

Evidences/Examples:

- 1) **The Moscow Signal:** low-power microwave beams were directed into the US embassy for more than two decades, from 1953 until 1976. Discovered in 1962, US scientists studied the signal until the 1970's before finally telling the diplomats it was there, and offering them hazard pay. Many got sick, some died. Was not exposed to the public until 1976 when unearthed by an investigative reporter. This led to DoD's ARPA Project Pandora
- 2) From 1965 through to 1970, Defense Advanced Projects Research Agency (DARPA), with up to 70-80% funding provided by the military, set in motion operation **PANDORA** to study the health and psychological effects of low intensity microwaves with regard to the so called "Moscow signal". **This project was quite extensive and included (under US Navy funding) studies demonstrating the ability to: induce heart stoppage, create leaks in**

the blood brain barrier, and production of auditory hallucinations. Nervous system function could easily be degraded with properly pulsed signals. Memoranda of Richard Cesaro, Director, DARPA, confirmed that the program's initial goal was to "discover whether a carefully controlled microwave signal could control the mind." Cesaro urged that further studies be made "for potential weapons applications." This was 1970, and very specific neurological and physiological weapons capabilities of microwaves had already been recognized.

3) **Jose Delgado**—the scientist who stopped the charging bull by remote control. Dr. Jose Delgado's secret work in Project Pandora was directed towards the creation of a "psycho-civilized" society. In his paper "Intracerebral Radio Stimulation and recording in Completely Free Patients", using radio waves, Delgado observed that: "Radio Stimulation on different points in the amygdala and hippocampus in the four patients produced a variety of effects, including **pleasant sensations, elation, deep thoughtful concentration, odd feelings, super relaxation, colored visions (hallucinations), and other responses.**" Speaking in 1966, Delgado asserted that his research "supported the distasteful **conclusion that motion, emotion and behaviour can be directed by electrical forces and that humans can be controlled like robots by push buttons.** Delgado stated that EM weapons were "more dangerous than atomic destruction." "With knowledge of the brain, we may transform, we may shape, direct, roboticize man. I think the great danger of the future is that we will have roboticized human beings who are not aware that they have been roboticized." He created a brain transponder that was IN FACT used to roboticize human subjects.

4) **Dr Ross Adey**, formerly of the Brain Research Center at the University of Southern California, worked on the CIA's infamous Pandora project. His research involved inducing of specific behavior modifications by electromagnetic means. In his pioneering work, **Dr. Ross Adey determined that emotional states and behavior can be remotely influenced merely by placing a subject in an electromagnetic field.** He also demonstrated that EM radiation, properly modulated and pulsed, can induce calcium efflux events to interfere with brain's function---the so-called "confusion weaponry". Again, this is by 1970.

5) **Lawrence Pinneo**, a neurophysiologist and electronic engineer working for Stanford Research Institute (which is a leading military contractor), "**developed [in 1974] a computer system capable of reading a person's mind. It correlated brain waves on an electroencephalograph (EEG) with specific commands.**

6) **Dr. Eldon Byrd**, a Navy medical engineer with a graduate degree from George Washington University, worked on the Polaris weapon system as an engineer, worked for Naval Surface Weapons Office, **was tasked in 1980- 1981 by the US Marine Corps as Project manager to develop non-lethal electromagnetic weapons for purposes including "riot control", clandestine operations and hostage removal. Worked on ELF, non-linear magnetics.** He worked with Ross Adey, Dr. Elizabeth Roscher, Michael Persinger **on the ability to entrain human brainwaves at a distance. And he said, "We accomplished it."** 1980. His project went dark after that. It was taken away from him. He had it confirmed from a senator—Senator Pell—confirmed for him that his project went dark. Byrd was quoted in a lecture around 2001 as saying, "Is Mind Control Possible? Absolutely. There is a mountain of evidence." He went on to say that, "Today we know there are technologies that can induce sound into the brain at a

distance, can monitor and alter brainwaves at a distance, can alter behavior at a distance, can induce images into the brain at a distance, can target individual organs at a distance. Can disrupt the calcium ions binding on individual cell surfaces at a distance, creating pain and other effects anywhere in the body. Mind control technology exists, without a question." Less than a year later, Dr. Byrd was dead. Maybe it was a coincidence.

7) A 1980 NASA document [NASA abstract Report Number: AD-A090426, June 1, 1980] described that one can remotely create the perception of noise in the heads of personnel by exposing them to low power, pulsed microwave.... By proper choice of pulse characteristics, intelligible speech may be created. 1980. Yes, 1980.

8) For further documentation, I recommend the following webpage: <http://educate-yourself.org/mc/listofmcsymptoms05jun03.shtml>. This webpage documents that there is truly a mountain of evidence about these terrifying weapons. Some highlight include the PROVEN capabilities to induce false memories in the brain, Subliminal command implantation into the brain to modify behavior (including suppressing dissidents).

9) Finally, In July 1996, the Spotlight, a widely circulated right-wing U.S. newspaper, reported that well-placed DoD sources have confirmed a classified Pentagon contract for the development of "high-power electromagnetic generators that interfere with human brain waves."

Dr. Emery Horvath, a professor of physics at Harvard University, has stated in connection to these generators, "These electronic 'skull-zappers' are designed to invade the mind and short circuit its synapses... in the hands of government technicians, it may be used to disorient entire crowds, or to manipulate individuals into self-destructive acts. It's a terrifying weapon."

To quote José Delgado in his book Physical Control of the Mind: Toward A Psychocivilized Society, p. 116:

Individuals whose brain centers are electrically stimulated believe their evoked actions are their own ideas; their conscious mind rationalizes the evoked actions away. People experiencing this electrical stimulation aren't consciously aware of an external influence. In summary, these weapons have the ability to mentally and physically torture people, and to influence human psychological behavior. With, or even WITHOUT the target's knowledge or awareness.

SUMMARY OF THE PROGRAM AND ITS IMPLICATIONS

In summary, we have a program which includes the earmarks of past programs including COINTELPRO and MK-Ultra. It also uses collaboration of regular people to carry out much of the harassment, similar to Stasi or Zersetzen torture of the prior East Germany. Furthermore, it uses advanced neuro-weapons to mentally and physically torture victims from a distance--whether in their homes, workplaces, or wherever they may go. The goals of the program are many, but ultimately boil down to torture, control, discrediting, and neutralization--exactly the same goals as the prior COINTELPRO, MK-ULTRA, and Stasi or Zersetzen torture. While some victims may be chosen at random, many cases, upon examination, are shown to be

perpetrated against activists, whistleblowers, and those who have spoken out against corruption. The consequences are severe. Most targets lose their jobs, homes, and/or their families. Many end up on dangerous medications or institutionalized. Some end up committing suicide or homicide.

Of course, the implications for humanity are frightening. Is it possible we are heading toward a synthetic reality, where people's thoughts, conversations, hopes, dreams, illnesses, major life events are controlled by supercomputers and handlers, all without their knowledge? Is our society becoming one in which no-one can be trusted, with everyone spying on everyone else? With a large percentage of the population becoming government informants and spying collaborators?

Are we developing a class of people with "less" rights, who can be harassed at will, even as we all slowly have our rights eroded? If so, doesn't that sound like a totalitarian regime such as Nazi Germany?

WHAT NEEDS TO BE DONE ABOUT THE PROGRAM

Several things. First of all, **targets must speak out. Especially those who have their wits about them. This program is highly disruptive, and is specifically designed to make even the most solid citizen look as if they have become delusional.** Compounding the problem, many targets are either forced to, or willingly take powerful psychiatric medications in hopes of decreasing the severe attacks they are suffering, or to appease skeptical friends and family members. In the case of real mental illness, this should resolve the symptoms. In the case of TI's, it does not stop the torture and harassment and manipulation of their lives.

So, that leads to the next point. **If you know someone who this is happening to—don't count them as crazy. They may be a victim of this program.** Recognize that the issues they were speaking about before they got into their current situation are still just as valid now as they were before. **In fact, it was probably the very legitimacy of their issues that led powerful forces to want to discredit them so thoroughly. Remember that.**

Whistleblowers must come forward who are aware of this program.

Fearless journalists must pursue the story. It was investigative journalists who brought widespread attention to MK-ULTRA, COINTELPRO, and much of the unethical experimentation that has occurred in the USA.

Targets must come together. There is strength in numbers. Targets should never give up the fight.

Finally, Congress MUST thoroughly investigate the intelligence agencies, DOD research programs, and black operations. The targeted individual program is happening. It's not science fiction. It needs to be EXPOSED AND SHUT DOWN FOREVER. Thank you for your attention.

AFFIDAVIT**STATE OF TEXAS****COUNTY OF CAMERON**

On this 14th day of March, 2014, appeared before me GERAL W. Sosbee, an individual known personally to me to be the person who affixed his signature to this document below and who, being by me first duly sworn on his oath, deposed and said:

"My name is GERAL W. Sosbee; I am over the age of 18 years. I am fully competent in all manner to make this affidavit. The information contained in this affidavit is within my personal knowledge, and is true and correct to the best of my knowledge. I am referred to below as Affiant.

I hereby incorporate by reference into this affidavit and thereby make a part herein as though fully reproduced herein for all purposes the following documents:

- 1) My sworn affidavit, dated March 7, 2007, published at <http://www.sosbeevfbi.com/affidavit2007.html>
- 2) The contents of my websites (and related links and statements by Affiant therein) located at
 - a) www.sosbeevfbi.com
 - b) <http://www.newciv.org/nl/newslog.php/v194/>
 - c) <http://sosbeevfbi.ning.com/>

This incorporation includes all statements, documents and other corroborating evidence provided, obtained or authorized by Affiant, including all updates by Affiant at the above listed and referenced websites and any other internet site to date.

For the past about twenty-five (25) years, the FBI has engaged in a vendetta or revenge campaign against me for my reporting crimes committed by the FBI during my service as a Special Agent in the FBI and thereafter. For more details see my Writ at <http://www.sosbeevfbi.com/sosbeewrit.html> and other documents.

The illegal and criminal assaults by the FBI against me include a 24/7 surveillance and assaults by Directed Energy Weaponry, chemicals, psychological operations, and occasional assault and battery by street thugs in the employ of the FBI. Also, the FBI has attempted on some occasions to end my life by causes that may appear to be natural.

The apparent reason for the FBI campaign against me is contained at this site:

<http://www.sosbeevfbi.com/thisiswhy.html>

On or about April 30, 2013, the FBI and the CJIS (acting on false or unsubstantiated rumor or innuendos and for harassment purposes) caused the following two state and federal government investigators to come to my home in a fraudulent investigation for a crime committed by another person:

Trey Knipfing, Postal Inspector, 14800 Trinity Blvd., Suite 600

Fort Worth TX 76155-2675

(817)359-2765, Fax: (817)359-2708

RMKNIPFING@USPS.GOV

Conrad Rodriguez, Agent, Texas Department of Public Safety, Dallas, Texas

For more on this topic see:http://sosbeevfbi.ning.com/profiles/blogs/police-come-to-my-home-on-fishing-expedition?xg_source=activity

Inspector Knipfing admitted to me during the discussion that someone committed a crime in Dallas, Texas, and planted my name at the scene of the crime. Inspector Knipfing also stated that an employee of the Texas Department of Public Safety is a suspect in the commission of the aforementioned crime and that a possible Public Integrity Investigation against that employee may ensue. During my discussion with Inspector Knipfing, Special Agent Rodriguez abruptly and pointedly attempted an apparent profiling effort against me by asking whether I 'am angry at the FBI' and whether I am online with my reports 'for the benefit of humanity.' Consistent with Agent Rodriguez' adversarial tone, even the local police assist the FBI in fraudulent efforts to arrest me. See false BOLO at: <http://www.sosbeevfbi.com/part19c-updatefo.html>

I have never been accused of any offense, criminal or civil (that I am aware of) in my life, other than rare routine traffic citations; my medical records show that I have no evidence of any form of communicable disease. I am an attorney in good standing (inactive status) with the Texas State Bar, license number 18855625, and no action has ever been taken against my license to practice law. I am also a member in good standing of the Bar of other courts including The United States Supreme Court.

I estimate the cost of the unlawful FBI program against me over the past 25 years to be less than one million per year, totaling about twenty million dollars to the tax payers.

I hereby further certify and affirm under penalty of perjury of the laws of the United States and the laws of the state of Texas that all statements, including those incorporated by reference and made a part herein for all purposes as though fully reproduced herein are true and correct and that all documents (including those incorporated by reference) are true and correct copies of originals and that they are what they purport to be to the best of my knowledge and ability.

Further, Affiant sayeth Naught."



Geral W. Sosbee (DOB: 08/30/1945)

P.O. Box 1548

Harlingen, Texas 78522

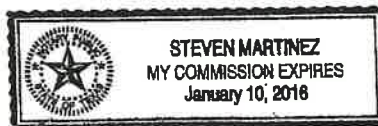
Sworn to and subscribed before me on the 14th day of March, 2014, to witness which I place my hand and official seal of office.

Notary Seal

My Commission Expires

1/10/16

Notary Public



In and for Cameron County, Texas

Page 3 of 3



AFFIDAVIT

STATE OF TEXAS COUNTY OF CAMERON

On this 7th day of March 2007, appeared before me GERAL W. Sosbee, an individual known personally to me to be the person who affixed his signature to this document below and who, being by me first duly sworn on his oath, deposed and said:

"My name is GERAL W. Sosbee; I am over the age of 18 years. I am fully competent in all manner to make this affidavit.

The information contained in this affidavit is within my personal knowledge, and is true and correct. I am referred to below as Affiant.

I have documented by direct and incontrovertible evidence and personal testimony the criminal activities of dozens (or perhaps hundreds) of agents, operatives and handlers of the FBI and the CIA of the United States of America, including, but not limited to the following:

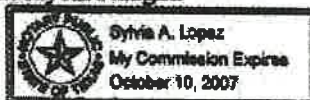
- A. Obstruction of Justice, Suppression of Evidence, Perjury, Fabrication of Evidence, Criminal Conspiracy, Conspiracy to Violate and the Violation of Civil Rights, Attempted Extortion, Attempted Blackmail, False Arrest, False Imprisonment, Fraud, Burglary, Robbery, Felonious Assault and Battery, Destruction of Personal Property, Petty Theft, Theft of and Tampering with U.S. Mail and a variety of other high crimes and misdemeanors as further described in paragraph "B" below.
- B. Abuse of civil process, home and car invasions facilitated by physical and wireless electronic surveillance in home and car and further enhanced by the use of a tracking device implanted in the person of the human experimentee, the Affiant; the surveillance of Affiant is in effect as this affidavit is written and has been in effect twenty four hours a day, seven days a week, three hundred and sixty-five days a year, without cessation and without interruption for well over nine years world wide; all such invasive surveillance is accompanied by various terrorist acts against the Affiant as further described in paragraph "C" below.
- C. Repeated assault and battery on the person of the Affiant by street thugs and by the use of high technology authorized by the United States Government under a program known as Non-Consensual Cover Research and Human Experimentation; in this program the FBI and the CIA perform a wide variety of terrorist assaults on the Affiant; one such assault is accomplished by the injection (or placing) into the Affiant various chemicals, bacterial and viral infections; concomitant with the chemical and biological assaults the FBI and the CIA activate against the Affiant advanced Remote Electronic Human Behavior Influence Technology including psychoelectronic and directed energy assaults sometimes coordinated with fraudulently conceived and illegally carried out (with local police authorities world wide) attempted criminal sting operations designed to lead to the imprisonment or death of the Affiant; also in conjunction with such hi-tech experimentations the Affiant is subjected to FBI and CIA psychological operations (including conditioned response and operant conditioning techniques) which are all designed to cause the Affiant to have a nervous breakdown, physical collapse or to otherwise seek final exit from the torturous campaign, the effects of which are often viewed in real time by the FBI/CIA tormentors who actually watch on computer screens the Affiant react to the injurious and painful dirty tricks and provocations described herein; all such treasonous, inhumane and covert operations are carried out with the full support of all government entities at every level of society as

further explained in paragraph "D" below.

- D. All three branches of the United States Government (and segments of the community at large) are compliant with the mandates of FBI and CIA terrorist assaults as described above and all government officials at the local, state and federal levels pretend that no such criminal activity as described in the instant affidavit may occur; thus, to date the Congress of the United States, the entire Judiciary and each and every employee of the Executive branch of the government of the United States of America may directly or indirectly support the terrorist activities of the FBI and the CIA as set forth herein and as further amplified in paragraph "E" below.
- E. I hereby incorporate by reference into this affidavit and thereby make a part herein as though fully reproduced herein for all purposes the contents of my website (and related links and statements by Affiant therein) located at www.sosbeevfbi.com; this incorporation includes all statements, documents and other corroborating evidence provided, obtained or authorized by Affiant, including all updates by Affiant at www.newciv.org and any other internet site to date.

I hereby further certify and affirm under penalty of perjury of the laws of the United States and the laws of the state of Texas that all statements, including those incorporated by reference and made a part herein for all purposes as though fully reproduced herein are true and correct, and that all documents (including those incorporated by reference) are true and correct copies of originals and that they are what they purport to be to the best of my knowledge and ability.

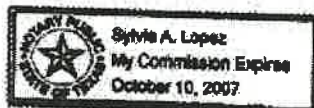
Further, Affiant sayeth Naught."



(Notary Seal)

Gerald W. Sosbee
Gerald W. Sosbee

Sworn to and subscribed before me on the 7th day of March 2007, to witness which I place my hand and official seal of office.



(Notary Seal)

Sylvia A. Lopez
Sylvia A. Lopez, Notary Public
in and for Cameron County, Texas



OFFICE OF THE CITY COUNCIL

May 6, 2015

Dear Targeted Individuals,

My first concern is for the safety and wellbeing of all of our residents. As a city official I am requesting that other city officials provide moral support to the Targeted Individual community nationwide. A small group of volunteers, dedicated city residents, and their associates have brought before me troubling information. These individuals have reported the need of support in reducing the stigma placed on them via exposing technology, to alter their minds and covertly deem them mentally ill within society at large.

Three years ago, I met Richmond resident Amy Lee Anderson about this matter. Ms. Anderson informed me she was a survivor of these horrible attacks. According to her description, these government patented technologies and weapons interfere and disrupt the targeted individual's health physically and psychologically by remote transmission. Also, it has been brought to my attention that many survivors have reached out to their city officials peacefully, through numerous avenues of redress and accountability about these types of horrifying abuses, only to experience dismissal, being stonewalled, mocked and ignored, or a level of all out discrimination resulting in these individuals being wrongly labeled as unstable, criminals, or troublemakers.

I am writing this letter in full support, and on behalf of Amy Lee Anderson and other unwitting residents of Richmond, California who believe they are unwilling and unwitting victims. These hostile technologies, as described to me, cause physical, psychological and sexual trauma at times unbearable pain to the body, causing undeserved harm.

In our city, we put forth our best efforts to listen and respect the voices, wisdom, and experiences of our residents. We will not ignore, but support those who suspect they have been exposed to these types of inhumane attacks with the intent to cause them great emotional and bodily harm. I am encouraged by these citizens who have stood up to protect our residents. In response to the Targeted Individuals' concerns, I facilitated a meeting with Captain Gagan from the Richmond Police Department to ensure that reports from the targeted individuals would be accepted and investigated, as any other alleged crime.

I would like to encourage other officials at the local, state and national levels to explore methods to extend the listed courtesies below to all residents.

- To reduce and eliminate stigmas or wrongly derived labels of instability against victims of crime.
- Informing others of any abuses or crimes against citizens.
- To listen and encourage participation from all its residents.
- Means to make these abuses visible and recognized as crimes by local, county/parish, state and federal legislators and law enforcement alike.

Best Wishes to all survivors,



Jovanka Beckles
Richmond City Councilmember



US007784390B1

(12) **United States Patent**
Lowell et al.

(10) **Patent No.:** **US 7,784,390 B1**
(45) **Date of Patent:** ***Aug. 31, 2010**

(54) **SOLID-STATE NON-LETHAL DIRECTED ENERGY WEAPON**

(75) Inventors: **Reid F. Lowell**, Ontario, CA (US);
Kenneth W. Brown, Yucaipa, CA (US);
A-Lan V. Reynolds, Tucson, AZ (US);
Alan A. Rattray, Alta Loma, CA (US)

(73) Assignee: **Raytheon Company**, Waltham, MA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 467 days.

This patent is subject to a terminal disclaimer.

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(21) Appl. No.: **11/867,579**

(22) Filed: **Oct. 4, 2007**

Related U.S. Application Data

(63) Continuation-in-part of application No. 11/207,049, filed on Aug. 18, 2005, now Pat. No. 7,490,538.

(51) Int. Cl.
F41H 13/00 (2006.01)
F41C 27/00 (2006.01)

(52) U.S. Cl. **89/1.11; 42/1.08; 42/84**

(58) Field of Classification Search **89/1.11; 42/1.08, 84**

See application file for complete search history.

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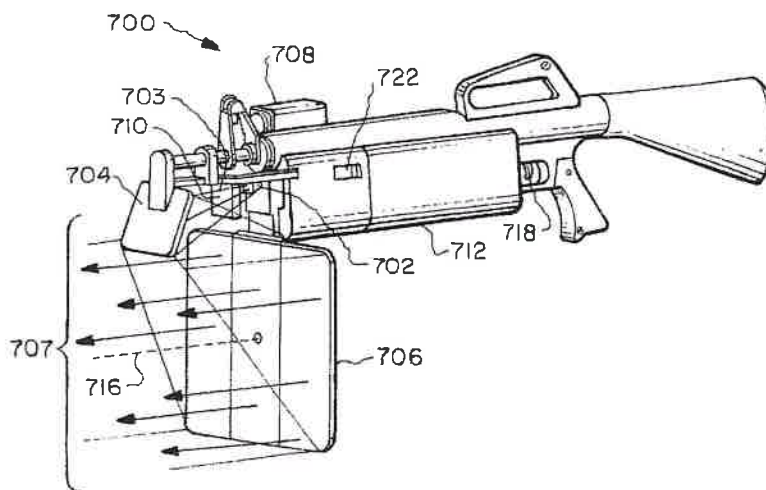
(Continued)

Primary Examiner—Bret Hayes
(74) *Attorney, Agent, or Firm*—SoCal IP Law Group LLP;
Steven C. Sereboff; John E. Gunther

(57) ABSTRACT

There is disclosed a solid state non-lethal directed energy weapon. The non-lethal weapon may include a solid-state source to generate a high-power millimeter-wave initial wavefront, a main reflector, and a sub-reflector to reflect the initial wavefront to the main reflector. The main reflector may direct the reflected wavefront in a bore-sighted direction toward a target. The wavefront directed by the main reflector may have a power density selected to deliver a non-lethal deterring effect on the target.

19 Claims, 10 Drawing Sheets



United States Patent [19]

Brunkan

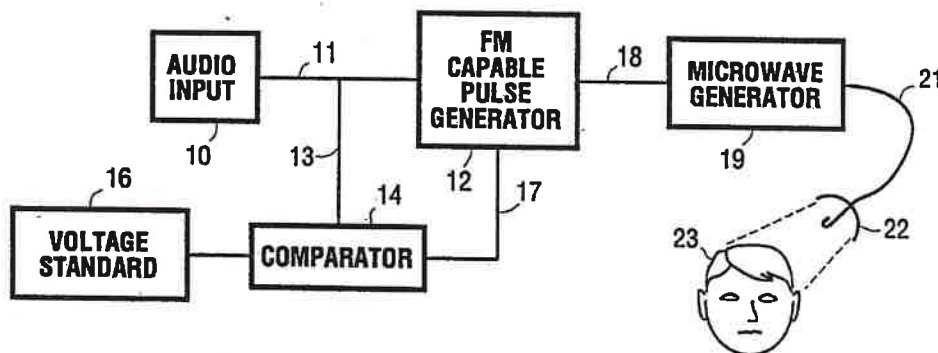
[11] **Patent Number:** 4,877,027[45] **Date of Patent:** Oct. 31, 1989[54] **HEARING SYSTEM**[76] **Inventor:** Wayne B. Brunkan, P.O. Box 2411,
Goleta, Calif. 93118[21] **Appl. No.:** 202,679[22] **Filed:** Jun. 6, 1988[51] **Int. CL⁴** A61N 5/00[52] **U.S. CL** 128/420.5[58] **Field of Search** 128/420.5, 804, 419 R,
128/421, 422, 746; 381/68[56] **References Cited****U.S. PATENT DOCUMENTS**

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pp. 176-177.*Primary Examiner*—Lee S. Cohen*Attorney, Agent, or Firm*—Harry W. Brelsford[57] **ABSTRACT**

Sound is induced in the head of a person by radiating the head with microwaves in the range of 100 megahertz to 10,000 megahertz that are modulated with a particular waveform. The waveform consists of frequency modulated bursts. Each burst is made up of ten to twenty uniformly spaced pulses grouped tightly together. The burst width is between 500 nanoseconds and 100 microseconds. The pulse width is in the range of 10 nanoseconds to 1 microsecond. The bursts are frequency modulated by the audio input to create the sensation of hearing in the person whose head is irradiated.

8 Claims, 1 Drawing Sheet



General Assembly

Distr.: General
13 October 2022

Original: English

Human Rights Council

Fifty-first session

12 September–7 October 2022

Agenda item 3

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Resolution adopted by the Human Rights Council on 6 October 2022

51/3. Neurotechnology and human rights

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Vienna Declaration and Programme of Action, the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities, and other relevant international and regional human rights instruments,

Recalling all relevant Human Rights Council resolutions, including resolutions 43/13 of 19 June 2020 on mental health and human rights, 47/16 of 13 July 2021 on the promotion, protection and enjoyment of human rights on the Internet, 47/23 of 13 July 2021 on new and emerging digital technologies and human rights, 48/4 of 7 October 2021 on the right to privacy in the digital age, and 50/15 of 8 July 2022 on freedom of opinion and expression,

Recalling also that the obligation and the primary responsibility to promote and protect human rights and fundamental freedoms lie with the State, and that the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework sets out that States have a duty to protect, and that business enterprises, including technology companies, have a responsibility to respect human rights,

Bearing in mind that neurotechnology allows the connecting of the human brain directly to digital networks through devices and procedures that may be used, among other things, to access, monitor and manipulate the neural system of the person,

Recognizing that neurotechnology could be promising for human health and innovation, but that, at the same time, the continued development of some of its applications may pose a number of ethical, legal and societal questions that need to be addressed, including in human rights terms,

Mindful that the impact, opportunities and challenges of neurotechnology with regard to the promotion, protection and enjoyment of human rights are not fully understood, and of the need to analyse them further in a coherent, holistic, inclusive and comprehensive manner in order to leverage the full potential of neurotechnology to support human progress and development for all,



Noting that, in his 2021 report entitled “Our Common Agenda”, the Secretary-General stated that consideration should be given to updating or clarifying the application of human rights frameworks and standards to address frontier issues and prevent harms in the digital or technology spaces, including in neurotechnology,

1. *Requests* the Human Rights Council Advisory Committee to prepare a study in an accessible format, including an easy-to-read version, on the impact, opportunities and challenges of neurotechnology with regard to the promotion and protection of all human rights, including recommendations on how human rights opportunities, challenges and gaps arising from neurotechnology could be addressed by the Human Rights Council and its special procedures and subsidiary bodies in a coherent, holistic, inclusive and action-oriented manner, and to present the study to the Council at its fifty-seventh session;

2. *Also requests* the Advisory Committee, when preparing the above-mentioned study, to seek the views and inputs from, and to take into account the relevant work already done by, stakeholders, including Member States, international and regional organizations, the Office of the United Nations High Commissioner for Human Rights, the special procedures of the Human Rights Council, the treaty bodies, other relevant United Nations agencies, funds and programmes within their respective mandates, national human rights institutions, civil society, the private sector, medical and technical communities, academic institutions and other relevant stakeholders;

3. *Invites* the United Nations High Commissioner for Human Rights, the treaty bodies and the special procedures of the Human Rights Council, within their respective mandates, to give due consideration to the impact of neurotechnology on the full enjoyment of all human rights and fundamental freedoms;

4. *Decides* to remain seized of this matter.

*40th meeting
6 October 2022*

[Adopted without a vote.]



TRENDING TOPICS |

POLICE DEPARTMENTS SHUTTING DOWN | AI GOVERNANCE IN LAW ENFORCEMENT

Line-of-Duty Death (LODD)

Calif. cop killer left bizarre suicide note claiming he was hit by 'ultrasonic waves'

The man who killed the Calif. rookie officer left a note on his bed claiming police bombarded him with ultrasonic waves

January 14, 2019 01:31 PM

Associated Press

DAVIS, Calif. — The man who shot and killed a rookie California police officer left a letter on the bed in the home where he lived claiming police bombarded him with ultrasonic waves, officials said.

Police in the college town of Davis near Sacramento on Saturday made public the one-paragraph letter they said was written by Kevin Douglas Limbaugh, 48. He killed himself Thursday after fatally shooting Officer Natalie Corona.

Police spokesman Lt. Paul Doroshov said the paper was found face up on the gunman's bed.

"The Davis Police department has been hitting me with ultra sonic (sic) waves meant to keep dogs from barking," the letter said. "I notified the press, internal affairs, and even the FBI about it. I am highly sensitive to its affect (sic) on my inner ear. I did my best to appease them, but they have continued for years and I can't live this way anymore."

Operation CHAOS

Operation CHAOS or **Operation MHCHAOS** was a Central Intelligence Agency (CIA) domestic espionage project targeting American citizens operating from 1967 to 1974, established by President Lyndon B. Johnson and expanded under President Richard Nixon, whose mission was to uncover possible foreign influence on domestic race, anti-war, and other protest movements. The operation was launched under Director of Central Intelligence (DCI) Richard Helms by Chief of Counter-Intelligence James Jesus Angleton, and headed by Richard Ober.^{[1][2]} The "MH" designation is to signify the program had a global area of operations.^[3]

Background

The CIA was charged with the collection, correlation, and evaluation of intelligence. While the Act does not specify a prohibition on collecting domestic intelligence, or a restriction to only collect foreign intelligence, Executive Order 12333 of 1981 added prohibitions to limit CIA activities. The CIA began domestic recruiting operations in 1959 in the process of finding Cuban exiles who could be used in the campaign against Cuba and President Fidel Castro. As these operations expanded, the CIA formed a Domestic Operations Division in 1964. In 1965, President Lyndon Johnson requested that the CIA begin its own investigation into domestic dissent—independent of the FBI's ongoing COINTELPRO, which conducted similar activities.^[4]

The CIA developed numerous operations targeting American dissidents in the US. Many of these programs operated under the CIA's Office of Security, including:^[2]

- HTLINGUAL – Directed at letters passing between the United States and the then Soviet Union; the program involved the examination of correspondence to and from individuals or organizations placed on a watchlist.
- Project 2 – Directed at infiltration of foreign intelligence targets by agents posing as dissident sympathizers and which, like CHAOS, had placed agents within domestic radical organizations for the purposes of training and establishment of dissident credentials.
- Project MERRIMAC – Designed to infiltrate domestic antiwar and radical organizations thought to pose a threat to security of CIA property and personnel.
- Project RESISTANCE – Worked with college administrators, campus security and local police to identify anti-war activists and political dissidents without any infiltration taking place.

Scale of operations

When Nixon came to office in 1969, existing domestic surveillance activities were consolidated into Operation CHAOS.^[5] Operation CHAOS first used CIA stations abroad to report on antiwar activities of American citizens travelling abroad, employing methods such as physical surveillance and electronic eavesdropping, utilising "liaison services" in maintaining such surveillance. The operations

were later expanded to include 60 officers.^[3] In 1969, following the expansion, the operation was developing its own network of informants for the purposes of infiltrating various foreign anti-war groups located in foreign countries that might have ties to domestic groups.^[2]

Eventually, CIA officers expanded the program to include other leftist or counter-cultural groups with no discernible connection to Vietnam, such as groups operating within the women's liberation movement.^[1] The domestic spying of Operation CHAOS also targeted the Israeli embassy, and domestic Jewish groups such as the B'nai B'rith. In order to gather intelligence on the embassy and B'nai B'rith, the CIA purchased a garbage collection company to collect documents that were to be destroyed.^[6]

Targets of Operation CHAOS within the anti-war movement included:^[5]

- Students for a Democratic Society
- Black Panther Party
- Young Lords
- Women Strike for Peace
- Ramparts magazine^[7]

At its finality, Operation CHAOS contained files on 7,200 Americans, and a computer index totaling 300,000 civilians and approximately 1,000 groups.^[8]

Findings

The aim of the programs was to compile reports on "illegal and subversive" contacts between United States civilian protesters and "foreign elements" which "might range from casual contacts based merely on mutual interest to closely controlled channels for party directives."^[8]

DCI Richard Helms informed President Johnson on November 15, 1967, that the CIA had uncovered "no evidence of any contact between the most prominent peace movement leaders and foreign embassies in the U.S. or abroad." Helms repeated this assessment in 1969.^[1] In total, 6 reports were compiled for the White House and 34 for cabinet level officials.^[2]



Richard Helms

Exposure

The secret program was exposed by investigative journalist Seymour Hersh in a 1974 article in *The New York Times* entitled *Huge CIA Operation Reported in US Against Antiwar Forces, Other Dissidents in Nixon Years*.^{[1][9]} Amid the uproar of the Watergate break-in involving two former CIA officers, Operation CHAOS had been closed in 1973.^[4] Further details were revealed in 1975 during Representative Bella Abzug's House Subcommittee on Government Information and individual Rights.^[3] The government, in response to the revelations, felt press

enough to launch the Commission on CIA Activities Within the United States (The Rockefeller Commission), led by then Vice President Nelson Rockefeller, to investigate the depth of the surveillance.^[1] Richard Cheney, then Deputy White House Chief of Staff, is noted as having stated the Rockefeller Commission was to avoid "congressional efforts to further encroach on the executive branch."^[1]

Following the revelations by the Rockefeller Commission, then-DCI George H. W. Bush admitted that "the operation in practice resulted in some improper accumulation of material on legitimate domestic activities."^[3]

See also

- ECHELON
- NSA warrantless surveillance controversy
- Project Megiddo
- Project MINARET
- Project Mockingbird
- Project SHAMROCK
- Church Committee

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External links

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- Development of Surveillance Technology & Risk of Abuse of Economic Information | PDF (<https://fas.org/irp/program/process/docs/98-14-01-2en.pdf>) Archived (<https://web.archive.org/web/20120829010320/http://www.fas.org/irp/program/process/docs/98-14-01-2en.pdf>) 2012-08-29 at the Wayback Machine
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we must know

We have the right to know. No matter what.

Secretly forced brain implants Pt III: Ex-SS, FBI contractor defends targets

Posted on **August 27, 2010**

"Where did you go Karen Silkwood? What was the price on your head?

Why do our heroes all vanish? Why are our heroes all dead?

In the dark of night I hear the vultures scream. And I just can't seem to wake up from the dream.

How many armies must yet perish? How many young people die?

Why are we breathing dioxin while it rains acid rain from the sky?" ~ Wendy O. Williams (of the Plasmatics), song "Opus in Cm7" in the album WOW

Part I: Secretly forced brain implants: Explosive court case

Part II: Secretly forced brain implants: MRI scan image, medical and investigative reports

Part III: Secretly forced brain implants: Top SS, FBI agent reveals chipped civilian casualties

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Former United States Marine Corps Criminal Investigator, Secret Service and FBI Intelligence contractor, recognized expert with assets in the field of Technical Surveillance and Counter Measures (TSCM), William ("Bill") J. Taylor, private investigator is advocating for secretly forced brain implanted, Targeted Individual, James Walbert, featured in Part 1 and Part II of this series. In an exclusive Examiner 2-part interview this week with Taylor, he revealed the darkest of all the evil 'war on terror' corners, the Phoenix Program come home to roost and resulting civilian casualties in the domestic terror campaign, Targeted Individuals. (See: *What are the frequently asked questions and answers about Targeted Individuals?*)

Within this Part III of the series, Taylor comments on how “the greatest” American civilians, in their homes and communities, are being remotely neutralized with military grade weaponry under guise of the “war on terror.” (Also see: Dupre, D. *Obama targeted individual assassination program includes Americans*, Examiner, April 8, 2010) Taylor touches on the Nazi influence of this program now implemented in the U.S. through the related Nazi-CIA non-consensual human experimentation in the U.S.

Bill Taylor

Chief Investigator of the Karen Silkwood Targeted Individual case (see Youtube below), the Iran Contra and 3-Mile Island investigations, and before that, the Marine investigator who exposed and helped end the infamous Phoenix Program in Vietnam, among other major investigations he has led and leads, Bill Taylor’s cases have been depicted in books such as *Who Killed Karen Silkwood?*, *The Phoenix Program* and *The Great American Mail Fraud Trial*.

Among a wide range of investigatory, advisory and security consulting services, Taylor’s agency, The William J. Taylor Agency that operates out of a few location in th U.S., also investigates Targeted Individuals’ reports. These reports seem to the causal observer influenced by TV that has blacked-out this program, too bizarre to be real. In these cases, however, Taylor uncovers sophisticated surveillance equipment and other remote energy weapons assaulting the targets, defenseless against such technology.

“These are the finest of Americans. Most of the greatest people are being hurt the most,” were among Taylor’s first words during the interview with him.

Targeted Individuals are subjected to the shocking program used to spy, harass and torture the implanted victim through remote electroshock, burning of skin near postulated implant sites, radio broadcast voices into the skull involving insults and influences for self-destruction for up to twenty-four hours a day plus sexual harassment while the victim is at home, at work or elsewhere.

For fifty years, Taylor has been on the front lines of America’s secret under-belly where Nazi human experimentation, torture and energy weapons are applied to American targets to control and kill them through slow-kill or fast-kill means. For the past thirty years as a human rights defender, Taylor has had the professional background and technology to prove remotely applied technological cruel and unusual punishment used in the program to silence whistleblowers, other dissenters and others, mainly ordinary citizens but also some very high-profile persons.

“I started working for the Secret Service and FBI when I was 16 in Cape Canaveral,” Taylor said. “My neighbor was an undercover FBI agent, and they needed a young person to go into bars to get served alcohol so they could shut those bars down.

“In those days, so many Nazi scientists worked out of Cape Canaveral,” he said, referring to Operation Paperclip. “People thought of that area as having many rocket scientists but they had no idea how much human experimenting was going on there. That’s where plenty of the Nazis settled and worked.”

Operation Paperclip was the Office of Strategic Services (OSS) program used to recruit Nazi Germany scientists for employment by the U.S. after World War II (1939–45). It was executed by the Joint Intelligence Objectives

Agency (JIOA) by circumventing President Truman's anti-Nazi order, and the Allied Potsdam and Yalta agreements. JIOA created false employment and political biographies for the scientists. (Wikipedia)

Stated in Dupre's article, *Censored Gulf news: State-sponsored terrorism targets Deep South for Agenda 21 (Pt II)* is:

"According to Glen Yeadon and John Hawkins, co-authors of *The Nazi Hydra in America: Suppressed History of a Century* relatively few Nazi doctors and scientists responsible for German eugenic crimes were held accountable during Nuremberg Trials; only some found guilty. The U.S. government brought some 12,000 of those key Nazis to the U.S. in Operation Paperclip. They quickly merged with US intelligence to form the Central Intelligence Agency, the CIA that covertly steers the same and worse crimes against Americans and others."

Although only in his teens, Taylor sat next to Nazis in meetings. He sat at the table over dinner with Nazi scientists who spoke of performing experiments on Americans.

"We'd meet at the Mouse Trap Restaurant in Cape Canaveral. There was a lot of talk about their human experiments."

Taylor, now 67 years old said, "I remember them talking about giving LSD to people without them knowing to document the effects."

"One or two of them had been up in Maryland experimenting on inmates. They discussed how much better it was to use non-voluntary subjects and watch how they reacted. When a person knows they're in an experiment, they have more control over what's happening than if they didn't know."

"They've been looking for a way to put chemicals in water systems to control people for decades. Every country tries to find a way to incapacitate armies. They'd already tested LSD in Marine County's water system back in the 50' - 60's. As I recall, that was part of the CIA's Operation Chaos."

Operation Chaos aimed to squelch the student antiwar movement. (See: *Final Report of the Select Committee to Study Governmental Operations with respect to Intelligence Activities: United States Senate - CIA Intelligence Collection about Americans*)

"When I was a kid, they'd just touched on microwave energy. Ten years later, people had microwave ovens in their homes."

At age 17, in height of the "Cuban Crisis," Taylor joined the Marines, soon to be a Marine Corps criminal investigator.

"Like everyone else, I was wanting to be a good patriot and help save the world."

For the next nine years, Taylor would witness the cruel and inhumane standard operative procedures conducted by the U.S. military and intelligence agencies, including in Vietnam.

Even as a child, Taylor's inquiring mind "made people angry," like the time he asked why a certain saint was not in the Bible. That inquiring mind and sense of morality later clashed with military intelligence duty, such as when his superiors ordered him to arrest innocent men so the world would think the perpetrators were caught as media portrayed.

"When someone would say to me, 'This is getting too political. Go arrest this guy to take the heat off the operation,' I said, 'I can't do that.'"

Seeing experimenting on inmates in Lexington was too much for Taylor.

"I saw inmates being experimented on and wanted to get out. I saw all kinds of things. A guy driven crazy with the experiments had scratched up his whole body, scratched up his whole face that was bleeding. And then they put him in a straight jacket and they were still experimenting on him."

"I said, 'You can't do that,' but they were experimenting on him when I left.

Taylor soon resigned from the Marine Corp.

"I left because I felt I could more as a civilian," he stated.

"Men are always told it's for the good of the nation and if we have to spare a few to save many, it's justified. I know we are all created equal, so every life is important."

Out of Marine Intelligence, Taylor worked for an attorney's firm but that inquiring mind and morality drew him to establishing his own PI business to investigate crime,

Targeted Individuals

"Some very high-profile people are being targeted with remote weapons," Taylor said, adding, "I've told some of them that they should come forward and talk to help a lot of other people."

"If you knew some of the people who are targets that I've proven their cases – you'd be surprised. They usually end up with a settlement and agreement to halt the surveillance and injuries.

"One guy, I can't tell you his name, but you know who he is – everyone knows who he is – came to me and said, 'I think satellites are following me.'"

When Taylor's prompt matter of fact response was, "Ok," the man asked, "Don't you think I'm crazy?"

Taylor said "No. Let's check it out."

"As it turned out, in his case, it wasn't a satellite. We found he was being tracked and monitored from an airplane platform. They'd spent a million dollars to build a system to track his every move. He was that important to them."

"Many of them know if they come out and talk about targeting, they could lose credibility and bring huge financial deals down. People wouldn't trust them anymore."

How many bogus "Targeted individuals" have gone to Taylor?

"Very few," he said. "Over all the years I've been taking these cases, only a handful were bogus. I can tell pretty quickly and let them go fast."

Asked how many Targeted Individuals' cases has Taylor taken, after a pause, he said, "Oh, through all these years in private practice, I'd say between 300 to 400."

"I have to turn people being targeted away every day. I just can't take them all. There are too many. People just have no idea how many people are getting this."

At one point, to try to better accommodate all the victims trying to survive this crime against Targeted Individuals, Taylor opened a Hotmail help line but found it too time consuming.

"There were so many legitimate cases, I couldn't answer all the emails. I was spending all my time trying to answer the emails. My server quit working because the inbox was too full from people asking for help. I had to quit that."

"The saddest part of all this is that there are so many people being targeted who have no idea that's what's happening to them."

In terms of mind control, the techniques can be subtle or obvious according to Taylor, but the effect is the same, behavior control.

"What if you were reading a book and someone kept coming up behind you and tapping you on the head. Every time you start to read and concentrate, they come up and start tapping you on your head. You wouldn't be able to concentrate."

"That's one way this works remotely and how it is controlling people's minds."

According to Taylor, "One of the worst things is people being targeted so they get sexually aroused. They begin to think they really are a sexual deviant."

Taylor stated that one of the most tragic parts of the program is "watching its subjects self-destruct."

To be continued. In Part IV, the reader will learn how and why American doctors, health staff and others are secretly and easily implanting children and adults.

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Deborah Dupré, with post-graduate science and education degrees from U.S. and Australian universities, has been a human and environmental rights advocate for over 25 years in the U.S., Vanuatu and Australia. Support her work by **subscribing to her articles** and **forwarding the link** of this article to friends and colleagues or reposting only the title and first paragraph linked to this Examiner page. Dupre welcomes emails: info@DeborahDupre.com See her **Vaccine Liberty or Death** book plus **Compassion Film Project** DVDs.

See:

Part I: Secretly Forced brain implants: Explosive Court Case

Part II: Secretly Forced brain implants: MRI scan image, medical and investigative reports

Learn more: See "Karen Silkwood Bibliography" and videos.

Also see by this Examiner:

Human Target to President Obama: Ensure TI justice and accept our help letter

Human Targets: KENS 5 reports on Texan TIs tortured in houses of horrors

New evidence of Pentagon Nazi sins targeting innocent Americans and organizations

Shocking state secret: PATRIOT ACT illegal spy domestic terror campaign against Whistleblowing TIs

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Human Target

Chance for Congress to restore Constitution and protect innocent targeted individuals

Hit-listed Targeted Individuals call for Senate Judiciary Committee investigation

Big brother's terrorizing stalking habit legal unless Patriot Act replaced

Top-level nationwide criminal racket targeting whistleblowers hits the skies

Targeted man wants investigation of corrupt 'security' program and hi-tech weapons

Holder at fusion center conf praises and cautions about domestic spying

Source: <http://www.examiner.com/human-rights-in-national/top-ex-ss-fbi-agent-shocking-war-on-terror-secret-implanted-america-part-i>

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[<https://wemustknow.wordpress.com/2010/08/27/secretly-forced-brain-implants-pt-iii-ex-ss-fbi-contractor-defends-targets/>].

NEW GAMES, SAME AIMS: CIA ORGANIZATIONAL CHANGES

GUILLERMO JIMENEZ: Welcome to De-Manufacturing Consent. I am your host, Guillermo Jimenez. Our guest today is Douglas Valentine. How are you today? VALENTINE: I'm well. Thanks for having me on the show. JIMENEZ: The Phoenix Program has recently been republished by Open Road Media as part of their Forbidden Bookshelves series. Would you mind sharing with us how your book was chosen for the series? What do you make of this new-found interest in Phoenix; what the CIA was up to in Vietnam; and what the CIA is up to generally? VALENTINE: When the book came out in 1990, it got a terrible review in The New York Times. Morley Safer, who'd been a reporter in Vietnam, wrote the review. Safer and the Times killed the book because in it I said Phoenix never would have succeeded if the reporters in Vietnam hadn't covered for the CIA. Several senior CIA officers said the same thing, that "So and so was always in my office. He'd bring a bottle of scotch and I'd tell him what was going on." The celebrity reporters knew what was going on, but they didn't report about it in exchange for having access. I said that in the book specifically about The New York Times. So I not only got the CIA angry at me, I also got the Vietnam press corps angry at me too. Between those two things, the book did not get off to an auspicious start. The Times gave Safer half a page to write his review, which was bizarre. The usual response is just to ignore a book like The Phoenix Program. But The New York Times Book Review serves a larger function; it teaches the media elite and "intelligentsia" what to think and how to say it. So Safer said my book was incoherent, because it unraveled the bureaucratic networks that conceal the contradictions between policy and operational reality. It exposed Colby as a liar. Safer was upset that I didn't portray his friend and patron, Bill Colby, as a symbol of the elite, as a modern day Odysseus. Luckily, with the Internet revolution, people aren't bound by The Times and network news anymore. They can listen to Russia Today and get another side of the story. So Mark Crispin Miller and Philip Rappaport at Open Road chose The Phoenix Program to be the first book they published. And it's been reborn. Thanks to the advent of the e-book, we've reached an audience of concerned and knowledgeable people in a way that wasn't possible 25 years ago. It's also because of these Internet developments that John Brennan, the director of CIA, thought of reorganizing the CIA. All these things are connected. It's a vastly different world than it was in 1947 when the CIA was created. The nature of the American empire has changed, and what the empire needs from the CIA has changed. The CIA is allocated about \$30 billion a year, so the organizational changes are massive undertakings. If you want to understand the CIA, you have to understand how it's organized. JIMENEZ: Exactly, and that's what I want to talk to you about next. But first I'd like to touch upon the CIA's infiltration of the US media. I find it curious, because the way that you describe it, it's not so much a deliberate attempt to censor the media. There's a lot of self-censorship as a result of that already existing relationship. Is that how you see this? VALENTINE: Yes. The media organizes itself the way the CIA does. The CIA has case officers running around the world, engaged in murder and mayhem, and the media has reporters covering them. The reporter and the case officer both have bosses, and the higher you get in each organization, the closer the bosses become. The ideological guidelines get more restrictive the higher up you go. To join the CIA, you have to pass a psychological assessment test. They're not going to hire anybody who is sympathetic towards poor people. These are ruthless people who serve capitalist bosses. They're very rightwing, and the media's job is to protect them. Editors only hire reporters who are ideologically pure, just like you can't get into the CIA if you're a Communist or think the CIA should obey the law. It's the same thing in the media. You can't get a job at CNN if you sympathize with the Palestinians or report how Israel has been stealing their land for 67 years. The minute you say something that is an anathema

or upsets the Israelis, you're out. The people who enforce these ideological restraints are the editors and the publishers. For example, while covering the merciless Israeli bombardment of civilians in Gaza in 2014, Diana Magnay was harassed and threatened by a group of bloodthirsty Israelis who were cheering the slaughter. Disgusted, Magnay later referred to them as "scum" in a tweet. She was forced to apologize, transferred to Moscow, and banished forever from Israel.¹ In a similar case, NBC correspondent Ayman Mohyeldin was playing soccer with four young boys in Gaza when Israel shelled the playing field. Mohyeldin witnessed their murders, which he reported in a series of tweets. Without ever providing a reason, NBC pulled Mohyeldin from Gaza and prevented him from ever returning. NBC replaced Mohyeldin with Israeli sympathizer Richard Engel. Any dictator would be happy with the way American media is organized. The minute you step out of the box, they fire you or send you off to Siberia. It's a homogenous system. Not just the media and CIA, but politicians too. As the 2016 primaries proved, you can't be a candidate for either party unless you pass the ideological test. You must be a freewheeling capitalist. You must support Israel with billions of tax payer dollars. You must give the military whatever weapons it wants. That's the nature of the American state. These things naturally work together because that is the way it has been structured for 240 years. JIMENEZ: We've seen pseudo alternatives emerge in the Internet posing as adversarial or anti-establishment when they're anything but. We've seen this growing trend, and it's something to be mindful of as we look for these sources on the Internet. VALENTINE: The Internet is a free for all, so you have to approach it the way any enlightened person approaches every part of America, which is buyer beware. Capitalism is not designed to protect poor people or make sure people lead healthy, fulfilling lives. It's designed to make sure the super-rich can steal from the poor. There's only so much wealth and the rich want it. The rich want to monopolize information too. Is a particular piece of information on the Internet coming from a reliable source? Who knows? Just because some of it is true doesn't mean that all of it is true. To be able to discern whether the information is accurate or complete, you must be grounded in the reality that the capitalist system and all its facets are organized to oppress you, keep you in the dark and off balance as much as possible. It's a game of wits and you've got to be smart about it. Buyer beware. JIMENEZ: Exactly. Now I'd like to talk about the recent organizational changes in the CIA. It stems from an article in The Washington Post by Greg Miller. The headline is "CIA Director John Brennan Considering Sweeping Organizational Changes." What the article is saying is that Brennan wants to restructure the CIA using the model of their Counterterrorism Center; merging different units and divisions, combining analysts with operatives into hybrid teams that will focus on specific regions of the world. This sounds to me like the organizational changes that were born out of Phoenix and that were exported to other parts of the world over the years. The CIA appears to be applying the same structure to all of its operations. Is that how you read this? VALENTINE: Yes, and it's something that, from my perspective, was predictable, which is why The Phoenix Program was re-released now, because what I predicted 25 years ago has happened. And you can only predict if you know the history. The CIA initially, and for decades, had four directorates under an executive management staff: Administration, Intelligence, Operations, and Science and Technology. Executive management had staff for congressional liaison, legal issues, security, public relations, inspections, etc. Administration is just that: staff for finance, personnel, and support services like interrogators, translators and construction companies. Science and Technology is self-explanatory too, but with a typical CIA twist – science for the CIA means better ways to kill and control people, like the MKULTRA program. And now there's a fifth directorate, Digital, that keystrokes and hacks foreign governments and corporations. The Operations people overthrew foreign governments the old fashioned way, through sabotage and subversion. The Operations Directorate is now the

National Clandestine Service. The Intelligence Directorate, which is now called Analysis, studied political, economic and social trends around the world so that executive management could mount better operations to control them. The Operations Directorate was divided into several branches. The Counterintelligence (CI) branch detected foreign spies. Foreign Intelligence (FI) staff "liaison" officers worked with secret policemen and other officials in foreign nations. They collected "positive intelligence" by eavesdropping or by recruiting agents. The Covert Action branch engaged in deniable political action. The Special Operations Division (now the Special Activities Division) supplied paramilitary officers. There was also a Political and Psychological branch that specialized in all forms of propaganda. These branches and directorates were career paths for operations officers (operators) assigned to geographical divisions. An FI staff officer might spend his or her entire career in the Far East Asia Division. The managers could move people around, but those things, generally speaking, were in place when the CIA began. The events that led to the formation of the current Counterterrorism Center began in 1967, when US security services began to suspect that the Cubans and the Soviets were infiltrating the anti-war movement. Lyndon Johnson wanted to know the details, so his attorney general, Ramsay Clark, formed the Interdepartmental Intelligence Unit (IDIU) within the Department of Justice. The IDIU's job was to coordinate the elements of the CIA, FBI and military that were investigating dissenters. The White House wanted to control and provide political direction to these investigations. The Phoenix program was created simultaneously in 1967 and did the same thing in Vietnam; it brought together 25 agencies and aimed them at civilians in the insurgency. It's political warfare. It's secret. It's against the rules of war. It violated the Geneva Conventions. It's what Homeland Security does in the US: bringing agencies together and focusing them on civilians who look like terrorists. The goal of this kind of bureaucratic centralization is to improve intelligence collection and analysis so reaction forces can leap into the breach more quickly and effectively. In 1967, the CIA already had computer experts who were traveling around by jet. The world was getting smaller and the CIA, which had all the cutting edge technology, was way out in front. It hired Ivy Leaguers like Nelson Brickham to make the machine run smoothly. Brickham, as I've explained elsewhere, was the Foreign Intelligence staff officer who organized the Phoenix program based on principles Rensis Likert articulated in his book *New Patterns of Management*. Brickham believed he could use reporting formats as a tool to shape the behavior of CIA officers in the field. In particular, he hoped to correct "the grave problem of distortion and cover-up which a reporting system must address." Likert organized industries to be adaptable, and the CIA organized itself the same way. It was always reorganizing itself to adapt to new threats. And in 1967, while Brickham was forming Phoenix to neutralize the leaders of the insurgency in South Vietnam, James Angleton and the CIA's Counterintelligence staff were creating the MHCHAOS program in Langley, Virginia, to spy on members of the anti-war movement, and turn as many of them as possible into double agents. Chaos was the codename for the Special Operations Group within Angleton's Counterintelligence staff. The CIA's current Counterterrorism Center, which was established in 1986, is a direct descendent of Chaos. Starting in 1967, White House political cadres, through the IDIU in the Justice Department, coordinated the CIA's Chaos program, the FBI's COINTELPRO Program, and the military's domestic spying programs. When Nixon took office in January 1969, he immediately grasped the partisan political potential of the IDIU and these various domestic spying programs. The Nixon White House expanded Chaos and assigned its chief, Richard Ober, a deputy and a case officer. The Chaos staff occupied a vault in the basement at CIA headquarters in Virginia. It had a room where files were kept and where slides of suspects and potential recruits were viewed. A group of female secretaries managed the super-secret files. Chaos was super-secret because it was illegal for the CIA to engage in domestic

operations. Assignment to it was considered a "command performance." There was a communications system exclusively for Chaos cables and couriers to CIA stations overseas. The Chaos "back-channel" could by-pass the division chiefs and station chiefs and work directly with its unilateral assets in a country. Chaos "traffic" had the highest security classification, was restricted to only those officers involved in the operation, and was inaccessible to everyone but the CIA's top administrators. In October 1969, based on names provided by the FBI, the Chaos case officer began recruiting double agents from the Black Power and anti-war movements. I never learned his name, but the case officer only approached people with "radical" credentials. Radicals who passed polygraph and psychological assessment tests were recruited, trained in the clandestine arts, supplied with gadgetry and cash, given a cover, and sent overseas. The case officer called his 40-50 double agents "dangles" because their job was to act like normal radicals and hope that a gullible KGB agent would make an approach. Chaos dangles also spied and reported on their American colleagues. That's the illegal domestic part. A folder was created for each dissident. The folder contained the dissident's 201 "personality" file from the FBI, and included everything from arrest records to report cards to surreptitious photos taken of the person with other radicals. Some 7,000 -10,000 hard files were eventually assembled. In 1970 the Chaos squad started entering its information on radicals onto IBM cards and compiling it in a data base codenamed HYDRA that ultimately contained the names of some 300,000 people. HYDRA was developed domestically at the same time as the Phoenix information system (PHMIS) in Vietnam, by the same people. Chaos included a mail intercept program codenamed HTLINGUAL. I'm sure the anthrax scare after 9/11 was a CIA provocation designed to justify a mail intercept program similar to HTLINGUAL. All of these things I'm talking about are happening today on a much grander scale within the Muslim American community. In 1971, the IDIU's Intelligence Evaluation Committee was managed by Robert Mardian, the Nixon Administration's assistant attorney general in charge of Internal Security. The Chaos squad was helping the Pentagon track army deserters, as well as foreign nationals who were trying to coax soldiers to desert from US military bases in Germany. Chaos dangles were sent to North Vietnam and Cuba, and one agent, possibly Timothy Leary, was launched against Eldridge Cleaver in Algeria. Another Chaos agent played a critical though undisclosed role at the May 1971 anti-war demonstrations in Washington. Even Nixon's National Security Advisor, Henry Kissinger, monitored Chaos operations in regard to his secret peace negotiations with the North Vietnamese. By 1972, the Chaos squad was working with Nixon's infamous Plumbers. One Chaos agent may have been involved in the botched Watergate burglary that brought Nixon down. The mastermind of the burglary, Gordon Liddy, sat on Mardian's Intelligence Evaluation Committee and leveled requirements on CIA officer Richard Ober at Chaos. Liddy and his partner in crime, CIA officer E. Howard Hunt, are known to have directed Ober to spy on members of other government agencies. They also targeted Nixon's political enemies, including people like Daniel Ellsberg who could in no way be considered terrorists. Which gives you an idea of the prominence of political cadres in these operations, and how they used their power to conduct all manner of dirty tricks. Incredible power was concentrated in the Chaos office. Ober worked with the National Commission on Civil Disorders, the protean Law Enforcement Assistance Administration, and the Special Services units (Red Squads) of America's major metropolitan police departments. The CIA has always recruited cops as contractors to organize and advise foreign police forces, and local police forces certainly helped the CIA amass its Chaos files. As head of the Counterintelligence staff, James Angleton was the CIA's official contact with all federal law enforcement agencies, including the Bureau of Narcotics. Chaos exemplifies how the White House, through the CIA's network of law enforcement contacts, could use the Homeland Security apparatus as a cover to conduct all manner of illegal

domestic operations. It shows how the CIA could use participating Homeland Security agencies for its own insidious institutional purposes, and that individuals like Hunt and Liddy could exploit it for partisan political purposes. Hunt and Liddy's many misadventures resulted in the Watergate scandal, which cast a bright light on CIA's shenanigans and eventually led to the exposure of the Chaos squad. William Colby was the CIA's Executive Director at the time. Colby had returned to the United States in 1971 to testify to Congress about Phoenix, and had stayed on to take charge of the CIA's organizational affairs. After the arrest of the Watergate burglars, Colby worked with the Justice Department to have the IDIU abolished, and he made sure the Chaos "case officer" was reassigned but not disciplined. After he became Director of Central Intelligence in September 1973, Colby personally minimized the damage by leaking some of the gory Chaos details to Seymour Hersh. Colby also sacrificed his bitter rival James Angleton, who as chief of Counterintelligence was held responsible for Chaos and the mail intercept program. Colby's "limited hangout" and scapegoating of Angleton were part of a shell game, however, and the Chaos squad continued to track radicals and respond to FBI and military requirements. Everything was the same as before, including the ultra-secure communications system and restricted filing system, except that now, and from then on, it was done under the aegis of counterterrorism. Colby started the ball rolling in July 1972 when he made Ober chief of the CIA's International Terrorism Group (ITG). Ober's new job was to set up and manage a "central program" on international terrorism and airplane hijackings. Building on the Chaos files, the ITG started penetrating terrorist training camps in Algeria and Libya. It kept track of black militants with international connections, and its reports, like Chaos reports, were sent to Kissinger at the National Security Council. Ober's appointment as chief of ITG coincided with the establishment of Nixon's Cabinet Committee to Combat Terrorism, the first US Government entity of its kind. After the official termination of Chaos in March 1974, the ITG continued to occupy the same space in the CIA's basement. A new ITG chief was assigned and was assisted by the same female secretaries who kept updating the Chaos files and computer tapes. As of 1975, no Chaos files had been destroyed, because the CIA could not adequately define a "dissident." In 1977, veteran CIA officer Howard Bane became the third ITG chief. The notion of state-sponsored terrorism had emerged and was attributed to Libya and Iraq, both of which were said to have Soviet backing. As a result, Jimmy Carter's DCI, Stansfield Turner, directed Bane to organize the CIA against this new threat. According to Bane, counterterrorism was a "hot potato" but a "low priority" because of ongoing Congressional investigations into CIA abuses. Bane said Turner was "hung up" on the legal definition of terror. Turner insisted that CIA officers refer to counterinsurgency as "low intensity warfare," and in his effort to polish the CIA's image, Turner renamed the ITG the Office of Terrorism. Again, it was a shell game. Bane moved into the Chaos/ITG space in Langley's basement. He described it as a windowless room as large as the ground floor of a house, divided into cubicles. "There were ten or twelve little old ladies running around in tennis shoes," he said. Operations were compartmentalized and there was a "vault mentality." Little was happening. The acting chief was the former ITG operations officer and his job was following US citizens overseas. An avid proponent of covert action, Bane had served as chief of the CIA's North Africa Division and in other top operational posts. He was nearing retirement and approached his new assignment with the fervor of a man seeking to enshrine his legacy. He summoned everyone to a staff meeting and said, "Let's advertise ourselves to divisions." He set up a reference system to service each of the CIA's divisions, and each "little old lady" became an expert on a specific geographical area. Bane started meeting with his counterparts at State, Treasury, the FBI, the Pentagon, the White House and the NSA. As the Office of Terrorism began to serve a visible function, he moved the office to a fourth floor suite with windows. He was given an operations officer and recruited young men

to replace the older women as his liaison officers to the divisions. He began working with Jim Glerum, the chief of the CIA's Special Operations Division,² paramilitary operational forces at his command. to beef up the Meanwhile, the US Army had created Delta Force to respond to the well publicized terrorist incidents that occurred in the 1970s. Delta and later the Navy's SEAL Team Six served as the CIA's vanguard in the nascent War on Terror. Within the context of "low intensity warfare", the Office of Terrorism and its paramilitary units adopted a new lexicon in which "anti-terrorism" was the term for broad policy, and "counterterrorism" applied to specific, immediate actions. Bane got a bigger budget and high tech gadgets like silenced weapons and bugging equipment for use in hostage rescue operations. He acquired a fleet of black choppers and formed a Crisis Management Training Program team, composed of a psychiatrist and a few case officers, which advised US and foreign law enforcement officers on how to negotiate with terrorists. Bane set up a two-man intelligence unit at Delta headquarters at Fort Bragg, at which point Delta became a "customer" of CIA intelligence. Bane's Office of Terrorism sent daily reports profiling known terrorists and their activities to the Defense Intelligence Agency and the FBI. Very quietly his unit began to coordinate actual counterterror operations. "Say someone in Frankfurt had access to the Red Army," Bane explained. "Then Delta would send a team." Bane's Office of Terrorism handled each incident on a case-by-case basis, depending on whether it was defined as "international terrorism" (meaning the terrorists crossed borders or had foreign support) or "domestic terrorism" if terrorists were operating within their own country. If the incident related to domestic terrorism, the Office of Terrorism could not get involved, unless authorized through a presidential executive order called a "finding." The need for a finding was a stumbling block. Bane cited the time Colombia's M19 terror group took 20 foreign diplomats, including the US ambassador, hostage at a party at the Dominican Embassy. Thinking the transnational nature of the incident qualified it as "international terror," Bane, with the approval of the State Department's terrorism unit, launched a Delta operation in conjunction with the CIA's new SOD chief, Rudy Enders. Bane provided intelligence on the terrorists, while Enders provided Delta with the equipment it needed to stage a rescue operation. Meanwhile the Crisis Management Team assembled in Florida and prepared to jump into Colombia. But the operation came to a screeching halt when the CIA's Assistant Deputy Director of Operations, John Stein, revealed the operation to Turner's Deputy Director of Operations, John McMahon. As Bane recalled, McMahon asked him, "Are you trying to send us all to jail?" McMahon put the operation on hold and Bane was forced to call his officers back to Langley where they waited while "the lawyers" met with Carter's National Security Council staff. Only after the lawyers gave their approval did Carter issue the required "finding." In another instance, Bane was not allowed to mount an operation to rescue Italy's Prime Minister Aldo Moro. According to Bane, his superiors determined that Moro's captors were Italian nationals and thus were deemed to be operating domestically. Let me stress that all this was happening within the context of the Cold War. The Office of Terrorism was a feature of the broader "low intensity warfare" strategy designed to thwart Soviet "aggression" in Third World countries like El Salvador. Not until 4 November 1979, and the takeover of the American Embassy in Tehran, did the context start to change. This seminal event marked the emergence of Islamic "fundamentalists" as America's new *bête noire*. (And it allowed Ronald Reagan to crush Jimmy Carter in the 1980 presidential election.) In the wake of the Embassy takeover, Carter ordered Bane and the CIA's Office of Terrorism to work with Delta Force to rescue the 53 hostages. Bane told me the plan was based on a covert action plan to obtain "current intelligence" on the status of the hostages, including Tom Ahern, the CIA's station chief in Tehran.³ Bane needed this information to know where to direct what he called "the black and gray propaganda necessary to disguise the CIA's actual intentions." There was also a need to

quickly train Delta Force to operate in the Iranian desert. The needed intelligence was obtained, but the government's first major counterterror operation, the Desert One rescue mission, failed to get off the ground. Several aircraft malfunctioned and one crashed on 25 April 1980, killing eight soldiers. As with the Benghazi tragedy, Republican politicians jumped for joy at the chance to criticize Democrats; the hostage crisis dragged on for six months and enabled Reagan to characterize Jimmy Carter as weak, which means instant death for any American politician. There was other collateral damage as well. Reagan's flamboyant Director of Central Intelligence, William Casey, fired Bane and replaced him with William Buckley, a veteran CIA officer who had served several tours in Vietnam. From 1969-1971, under his patron Ted Shackley, Buckley had directed the CIA's national counterterror program in Vietnam. In April 1981, Casey and Buckley traveled together to Saudi Arabia to pave the way for the construction of an underground network of secret military bases that would be available to US forces. If the remarks attributed to Osama bin Laden are true, the presence of those bases under Saudi soil was one of the reasons he staged the 1998 Embassy bombings and the 9/11 terror attacks. The War on Terror took its next Great Leap Forward in October 1981 with the assassination of Egyptian President Sadat by his personal bodyguards, whom Buckley had trained. The assassination nullified the Camp David Accords and freed Israel to target PLO bases in Lebanon. In May 1982, Israeli assets in the fascist Christian Phalange militia organized one of the greatest acts of terror of all time – the massacre of hundreds of Palestinians in the Sabra and Shatila refugee camps. In August 1982 Buckley returned to CIA headquarters to coordinate anti terrorism policy through the Domestic Terrorism Group. Meanwhile, Casey appointed veteran CIA officer David Whipple as the CIA's National Intelligence Officer (NIO) for counterterrorism. A veteran operations officer with extensive service in the Far East, Whipple had been serving as CIA station chief in Switzerland. Whipple told me that Casey's executive staff consisted of 16 NIOs; eight handled geographical divisions, while the other eight handled issues like narcotics, nuclear weapons, and in Whipple's case, terrorism. Under Casey's direction, every government agency established a counterterror office as part of a secret apparatus. Whipple as NIO coordinated the CT offices and assisted the CIA's division chiefs, making sure their station chiefs were properly handling counterterror issues in their area of operations. Whipple ran the Office of Domestic Terrorism (ODT) from 1982 until 1986. His staff included an operations chief, intelligence analysts, photo interpreters, and case officers.⁴ Because it had the authority to access any division's files and co-opt its penetration agents, the ODT was resisted by the divisions – especially the Near East Division, which was on the front lines of the War on Terror. As you can see, the evolution of "offices" and later "centers" that transcended and coordinated the CIA's divisions was well underway by 1982. Throughout this early stage of its evolution, the CIA's terrorism office retained the legal authority to conduct unilateral domestic operations for a specific period of time before being required to notify and involve the FBI. (The guidelines are more honored in the breach than the observance, I'm sure.) The ODT also maintained the super-secret communications system instituted during Chaos that by-passed the CIA's normal chains of command. As part of this back-channel "counterterror network", Casey recruited Oliver North, a doe-eyed Marine lieutenant colonel assigned to the National Security Council (NSC). Whipple served as North's case officer in the monumental political misadventures North embarked upon. Cut from the same fascist cloth as his ideological forefathers Hunt and Liddy, North formed a crisis management center along with REX 84, "a plan to suspend the Constitution in the event of a national crisis such as nuclear war, violent and widespread internal dissent, or national opposition to a U.S. military invasion abroad."⁵ North's plan called for "the round-up and internment of large numbers of both domestic dissidents (some 26,000) and aliens (3,000 – 4,000), in camps such as the one in Oakdale,

Louisiana.”⁶ Certain trusted members of Congress were witting (despite that august body’s periodic protestations that the CIA operates as a “rogue elephant”) and Senator Daniel Inouye cut off all debate about North’s plan to suspend the Constitution when the subject was raised during the televised Iran-Contra Hearings in 1987. In April 1984, North created the Terrorist Incident Working Group (TIWG) specifically to rescue several American hostages held in Lebanon, including the aforementioned William Buckley, who had been kidnapped the month before. North became TIWG’s chairman and in October 1985 managed its first successful operation – the capture of the hijackers of the Achille Lauro. A few months earlier, after the June 1985 hijacking of TWA Flight 847 while it was flying from Athens to Beirut, George H. W. Bush had created the Vice President’s Task Force on Combating Terrorism. As the NSC’s liaison to the Task Force, “North drafted a secret annex for its report which institutionalized and expanded his counterterrorist powers, making himself the NSC coordinator of all counterterrorist actions.”⁷ North continued to acquire greater and greater powers, and on 20 January 1986, National Security Decision Directive 207 made him “chief coordinator” of Casey’s secret counterterror network through the Office to Combat Terrorism (OCT). Working through the NSC’s Operations Sub-Group, North coordinated the back-channel CT network with Major General Richard Secord’s “off-the shelf” Enterprise in a series of illegal operations. Among them were Israel’s facilitation of arms sales to Iran; American civilians supplying arms to the Contras; and Contra drug smuggling into America. North also planned for the repression of domestic dissent and criticism. As P. D. Scott has noted, “the Office to Combat Terrorism became the means whereby North could coordinate the propaganda activities of Carl “Spitz” Channel and Richard Miller (and) the closing of potential embarrassing investigations by other government agencies.”⁸ The evolution climaxed in 1986 with the creation of the CounterTerror Center under Duane Clarridge. Yet another right wing ideologue, Clarridge had been chief of the CIA’s station in Turkey in the late 1960s and early 1970s, when the fascist Grey Wolves went on a terror rampage, bombing and killing thousands of public officials, journalists, students, lawyers, labor organizers, social democrats, left-wing activists and Kurds. Since then, Turkey’s military has been one of America’s strongest allies, despite the recent coup attempt staged by the America-based, CIA-connected exile, Fethullah Gülen. A body-builder and scion of the old boy clique that runs the CIA, Clarridge was chief of Latin America Division from 1981 until 1984, when Nicaraguan harbors were mined and the CIA’s “murder manual” was distributed to the Contras. Clarridge helped Secord’s off-the-shelf Enterprise move PLO weapons captured by Israeli forces during their bloody invasion of Lebanon, through Manuel Noriega in Panama, to the Contras. That’s the kind of stuff the CT Center still does today; moving weapons from chaotic places like Benghazi in Libya, to deniable terrorist surrogates in Syria. As chief of the Europe Division, Clarridge had also provided the back channel in Lisbon that Secord’s Enterprise used to sell HAWK and TOW missiles to the Iranians, in exchange for the release of American hostages. According to Scott, “The intrigues of North, Secord, Clarridge and (Robert) Oakley (at the State Department) at this point showed a concern for politics rather than security.”⁹ When I interviewed him, Clarridge described the CT Center, which has coordinated CIA back-channel activities since 1986, as a central unit with members from the directorates operating under a committee at the National Security Council. With input from the division chiefs, the CT Center “divines” (as he put it) anti-terrorism policy and then “constructs entities” that conduct operations. It is not a function of US Special Forces, as often portrayed in the media, but of CIA “action teams” trained to capture suspected terrorists and bring them to the United States to stand trial. During his tenure as CT Center chief from 1986 to 1988, Clarridge worked directly with George H. W. Bush. He was lucky in that regard; Clarridge was indicted on seven counts of lying to Congress, but his case never went to trial, thanks to a last minute pardon Bush

issued on 24 December 1992. When called to task about his crimes, North blamed the peaceniks who lost the Vietnam War. If liberal politicians hadn't investigated the CIA, he argued, then fascists like him wouldn't have had to resort to dirty tricks. North's hatred of the peace movement was palpable. North believed that "the most pressing problem is not in the Third World, but here at home in the struggle for the minds of the people."¹⁰ North was out of control; when Jack Terrell told the Justice Department that North was involved in Contra drug smuggling, North labeled Terrell a terrorist and sicced the FBI on him. But neither North nor any of the other Iran-Contra criminals were ever punished, because, as Michael McClintock noted at the time, "the very notion of counterterror as terrorism was forbidden, while circumlocution was the norm."¹¹ That's how the CIA's CT Center evolved from the Chaos domestic spying mechanism into the nerve center of the CIA's clandestine staff. Same thing happened with the CIA's Counter-Narcotics Center at the same time. Both are modeled on Phoenix, and both are wonderful tools for White House cadres to exercise political control over the bureaucracies they coordinate. These "centers" are the perfect means for policing and expanding the empire; they make it easier than ever for the CIA to track people and events in every corner of the world. The need for the old-fashioned directorates is fading away. You don't need an entire directorate to understand the political, social and economic movements around the world anymore, because the United States is controlling them all. The US has color revolutions going everywhere. It's got the World Bank and the IMF strangling countries with debt, like the banks are strangling college students and home owners here. The War on Terror is the best thing that ever happened to US capitalists and their secret police force, the CIA. Terrorism is the pretext that allows the CIA to coordinate and transcend every government agency and civic institution, including the media, to the extent that we don't even see its wars anymore. Its control is so pervasive, so ubiquitous; the CIA has actually become the Phoenix. JIMENEZ: Right. VALENTINE: It's the eye of god in the sky; it's able to determine what's going to happen next because it's controlling all of these political, social and economic movements. It pits the Sunnis against the Shiites. It doesn't need slow and outdated directorates. These Phoenix centers enable it to determine events instantaneously anywhere. There are now Counterterror Intelligence Centers all over the world. In Phoenix they were called Intelligence Operations Coordinating Centers. So it's basically exactly the same thing. It's been evolving that way and everybody on the inside was gearing themselves for this glorious moment for 30 years. They even have a new staff position called Targeting Officers. You can Google this. JIMENEZ: Right, right, exactly. VALENTINE: The centers represent the unification of military, intelligence and media operations under political control. White House political appointees oversee them, but the determinant force is the CIA careerists who slither into private industry when their careers are over. They form the consulting firms that direct the corporations that drive the empire. Through their informal "old boy" network, the CIA guys and gals keep America at war so they can make a million dollars when their civil service career is over. JIMENEZ: The Washington Post and subsequent articles frame it as if these changes are drastic. But to hear you, it's a natural progression. So what does this announcement mean? Is the CIA putting out their own press release through the Washington Post just to give everyone the heads up? VALENTINE: Well, everybody in the CIA was worried that if the directorates were reorganized, it would negatively affect their careers. But executive management usually does what its political bosses tell them to do, and Brennan reorganized in 2015. He created a fifth directorate, the Directorate for Digital Innovation (DDI) ostensibly as the CIA's "mantelpiece". But, as the Washington Times reported, "it is the formation of the new 'mission' centers – including ones for counterintelligence, weapons and counter-proliferation, and counterterrorism– that is most likely to shake up the agency's personnel around the world."¹² The CIA's "ten new Mission Centers" are

designed to “serve as locations to integrate capabilities and bring the full range of CIA’s operational, analytic, support, technical and digital skillsets to bear against the nation’s most pressing national security problems.”¹³ This modernization means the CIA is better able to control people politically, starting with its own officers, then everyone else. That’s the ultimate goal. Politicians, speaking in a unified voice, create the illusion of a crime-fighting CIA and an America with a responsibility to protect benighted foreigners from themselves. But they can’t tell you what the CIA does, because it’s all illegal. Well, it’s all a lie. In order for the politicians to hold office, they have to cover for the CIA. Their concern is how to explain the reorganization and exploit it. They squabble among themselves and cut the best deals possible. JIMENEZ: That makes complete sense. Talking about all the illegal activity the CIA is involved in, I couldn’t help but think of the drug running. I’d like to point out to our listeners the article you wrote, which offers everything they ought to know as far as the history of the CIA in drugs. It’s entitled, “The CIA and Drugs: A Covert History” (Counterpunch, 7 November 2014). Meanwhile, I’d like to hear your opinion on the influence of counterterrorism and counterinsurgency tactics in local law enforcement. Local police departments are adopting many of the same tactics. We’re seeing the US government use counterterrorism and counterinsurgency tactics against its own people. Perhaps one of the most vivid examples is what happened in Ferguson, Missouri. Is that too a natural progression of Phoenix? VALENTINE: Absolutely. The very last paragraph in my book *The Phoenix Program* says you’ll know the Phoenix has arrived when you start seeing police forces advancing on protestors in paramilitary formations, and driving around in armored vehicles. That’s what the CIA does in foreign nations; it militarizes police forces so it can control that country’s political, economic and social movements. The CIA’s influence is pervasive here, too; it advises all the major police departments in the US. The Phoenix model of coordinating agencies happens under the “cognizance” of the CIA, because the premier threat is a terrorist infiltrating the US with nukes. It goes back to Chaos thinking: maybe ISIS is recruiting black radicals in Ferguson. If so, we need paramilitary police forces and administrative detention laws to neutralize them. The Missouri governor can say a protester in Ferguson is violating national security laws and hold him indefinitely. The media loves it. FOX News said the Black Lives protesters were holding “us” (meaning white people) hostage. If it’s a hostage situation, they’re terrorists. Tucker Carlson said (I paraphrase), “You can talk about race all you want. It’s a hostage situation and race doesn’t matter.” So the racists in government and law enforcement are elated. Now they can send in provocateurs (maybe an Afghanistan veteran like Dallas shooter Micah Johnson, who got wiped out by a robot carrying a Claymore mine) and start riots and crush the protestors because they’re terrorists. And that’s how, over the last 40 years, dissent has come to equal terrorism. It’s how the one percent wants us to see non-violent protest. They want the public to believe that anybody who resists law enforcement is a terrorist. All the pieces have been put in place, through the corporate media, to make the lies seem true. These Counterterror Intelligence Centers are already operating in the United States through the Department of Homeland Security’s fusion centers, which do the same thing. JIMENEZ: Exactly. VALENTINE: The American empire consists of hundreds of military bases and a CIA station in every country. It’s Pepsi being sold in Vietnam. “We are the world.” It’s not just 50 states and a few protectorates. It’s crazy for average Americans to think their fate is not directly connected to the fate of every other person in the world, or that the one percent considers them higher-class peasants than the other worker bees elsewhere around the world. There are diminishing resources and other strategic problems that the CIA is forecasting 20 years into the future. It’s planning stratospheric aerosol injections to cure climate change. The reorganization of the CIA is another incremental step in anticipation of America reaching that tipping point. Gated communities are the future; the centers

replicate them. JIMENEZ: Indeed. Something you said just now really struck me. And that's the way that Americans separate themselves from the Other. It reminds me of these arguments we hear in the media regarding the use of militarized police. It's okay in Afghanistan, but not in Ferguson. The use of Predator drones to kill somebody in Yemen is okay, but not in Montana. It's murder either way, but most of the American public doesn't see it that way. We can discuss this, but unless the American people do something to change this, then we run the risk of these things just becoming normal and accepted. For example, the CIA's drug running now we see in feature films, in Hollywood productions. VALENTINE: They think, "Well, that's what the CIA does, everybody knows it." If you watch a pro football game, you know the US military owns the NFL. There's F-14s flying over the stadiums. Every spectator has to stand and salute and plant a big wet kiss on the military's fat bloated butt. In my opinion, what it will take is for the men and women in the military to realize they're part of a self-defeating enterprise. Before you can change the CIA, you have to change some other things. You have to shrink the military establishment and end the war on drugs, which can be done. When given the chance in state referendums, people are voting for medical marijuana and adult recreational use. When given a chance to vote, people express common sense. Marijuana is not going to make you go out and massacre school kids or abortion providers. That happens because we live in a country that glorifies the god of violence and his sacred warriors. Demilitarizing American society is a start, like decriminalizing marijuana is a first step in ending the war on drugs. It's easier than challenging an arcane thing like the CIA that's covered with grey and black propaganda. It's hard for people to understand how huge bureaucratic systems work together. They get frustrated and vote to leave the European Union, or they cling to Trump or Clinton, thinking things will change. Maybe next year all the students will default on their loans and bring the system down. Maybe they'll say to hell with the bankers for mortgaging my future. We're taking it back. If something like that can happen, if that kind of consciousness can spread among young people being held in economic bondage and groomed to administer the empire, then there's hope. If they see they have nothing to lose, they'll come together and start making a fuss. JIMENEZ: That would be something to behold. VALENTINE: You have to use your imagination

Citations:

1 Michael Calderone, "CNN Removes Reporter Diana Magnay From IsraelGaza After 'Scum' Tweet, The Huffington Post, **2** The SOD is now known as the Special Activities Division. **3** Ahern was working undercover as the Embassy's Narcotics Control Officer. **4** Interview with David Whipple **5** Peter Dale Scott, "North, Iran-Contra, and the Doomsday Project: The Original Congressional Cover Up of Continuity-of-Government Planning", The Asia-Pacific Journal, 21 February 2011, citing a quote from the 5 July 1987 Miami Herald. Scott originally published the article in 1989 as "Northwards without North: Bush, Counterterrorism, and the Continuation of Secret Power." **6** Ibid. Miami Herald, July 5, 1987. **7** Ibid. **8** Ibid. **9** Ibid. **10** Ibid. **11** Michael McClintock, Instruments of Statecraft: U.S. Guerilla Warfare, CounterInsurgency, Counter Terrorism, 1940-1990, p 306. **12** Guy Taylor, "CIA goes live with new cyber directorate, massive internal reorganization" Washington Times, 1 October 2015. **13** Ibid

CREATING A CRIME: HOW THE CIA COMMANDEERED THE DRUG ENFORCEMENT ADMINISTRATION

By Douglas Valentine

Acronyms

DEACON: Drug Enforcement Administration Clandestine Operations Network

DESOG: Drug Enforcement Administration Special Operations Group

CENTAC: The Central Tactical Program was established by the Drug Enforcement Administration (DEA) to conduct investigations of major drug organizations?

BUNCIN: The Bureau of Narcotics Covert Intelligence Network

NIO: National Intelligence Officers

IGO: Intelligence Group/Operations

BNDD: Bureau of Narcotics and Dangerous Drugs

FBN: Federal Bureau of Narcotics

.....Washington Post columnist Jack Anderson. Anderson's sensational allegation that the DEA was providing cover for a CIA assassination unit was supported by revelations that the Senate had investigated Conein for shopping around for assassination devices, including exploding ashtrays and telephones. Conein kept his job, but the investigation exposed Muldoon and led to Conein's comrade from the OSS, Mitch Werbell. A deniable asset Conein used for parallel operations, Werbell had sold silenced machine pistols to DEACON 1 target Robert Vesco. Then living in Costa Rica, Vesco was surrounded by drug trafficking Cuban exiles from the Trafficante organization. Trafficante was also, at the time, living in Costa Rica as a guest of President Figueres. Figueres' son had purchased weapons from Werbell and used them to arm a death squad he had formed with DEACON 1 asset Carlos Rumbault, a notorious anti-Castro Cuban narco-terrorist and fugitive drug smuggler. Meanwhile, in February 1974, DEA Agent Anthony Triponi, a former captain in the army Special Forces and a Phoenix program veteran, was admitted to a hospital in New York "suffering from hypertension." DEA inspectors found Triponi in the psychiatric ward, distraught because he had broken his "cover" and now his "special code" would have to be changed. Thinking he was insane, the DEA inspectors called former chief inspector Patrick Fuller in California, just to be sure. As it turned out, Triponi was an active member of Operation Twofold and everything he said was true! The incredulous DEA inspectors called the CIA and were stunned when they were told: "If you release the story, we will destroy you."¹⁶ By 1975, Congress and the Justice Department were investigating the DEA's nefarious relations with the CIA. In the process they stumbled upon Tripodi's Medusa Program, as well as DEA plots to assassinate Moises Torrijos (brother of Panamanian President Omar Torrijos) and Panama's chief of military intelligence, Manuel Noriega. In a draft report, DEA Inspector Richard Salmi described Medusa as follows: "Topics considered as options included psychological terror tactics, substitution of placebos to discredit traffickers, use of incendiaries to destroy conversion laboratories, and disinformation to cause internal warfare between

drug trafficking organizations; other methods under consideration involved blackmail, use of psychopharmacological techniques, bribery and even terminal sanctions.”

The Cover-Up

Despite the flurry of investigations, Nixon’s successor, Gerald Ford, reconfirmed the CIA’s arrangement with DEA. The CIA continued to have its way. Much of its success is attributed to Seymour Bolten, whose staff, perhaps not coincidentally, handled all requests for files from the US Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities. The Church Committee, as it was known, was investigating the CIA’s many and varied illegal activities. But rather than bring about the total destruction of the Agency, the Church Committee concluded that allegations of drug smuggling by CIA assets and proprietaries “lacked substance.” The Rockefeller Commission likewise gave the CIA a clean bill of health, falsely stating that Operation Twofold was terminated in 1973. As Ingersoll noted, the Commission completely ignored the existence of the CIA’s operational unit hidden within the inspections program. However, as a result of the DEASOG assassination scandals, Ford did task the Justice Department to investigate “allegations of fraud, irregularity, and misconduct” in the DEA. Under US Attorney Michael DeFeo, the ensuing investigation examined allegations that DEA officials had discussed killing Omar Torrijos and Manuel Noriega. In March 1976, Deputy Attorney General Richard Thornburgh announced there were no findings to warrant criminal prosecutions. In 1976, Congresswoman Bella Abzug submitted questions to Ford’s CIA director, George H.W. Bush, about the CIA’s role in international drug trafficking. Bush’s response was to cite a 1954 agreement with the Justice Department that gave the CIA the right to block prosecution and keep its crimes secret in the name of national security. In its final report, the Abzug Committee wryly noted: “It was ironic that the CIA should be given responsibility of narcotic intelligence, particularly since they are supporting the prime movers.”¹⁷ Acknowledging the operational realities, Congress in 1976 through the Mansfield Amendment sought to curtail extra-legal activities by prohibiting DEA agents from kidnapping suspects without the consent of the host government. The CIA, of course, was exempt and continued to sabotage DEA cases against its “prime movers” while further tightening its stranglehold on DEA executive management. In 1977, having reached the end of his rope, the DEA’s enforcement chief, Daniel Casey, sent a memo co-signed by the enforcement division chiefs to DEA Administrator Peter Bensinger. The memo stated, “All were unanimous in their belief that present CIA programs were likely to cause serious future problems for DEA, both foreign and domestic.”¹⁸ Casey and his division chiefs specifically cited CIA “controlled deliveries” into the United States, and the fact that the CIA “will not respond positively to any discovery motion,” as the biggest impediments. “Many of the subjects who appear in these CIA-promoted or controlled surveillances,” the DEA officials complained, “regularly travel to the United States in furtherance of their trafficking activities.” The “de facto immunity” from prosecution the traffickers enjoyed, due to the CIA’s “electronic surveillance” of the controlled deliveries, enabled the CIA assets to “operate much more openly and effectively.” But Bensinger suffered the CIA at the expense of America’s public health and the DEA’s integrity. Under Bensinger, the DEA created its CENTAC program to target trafficking organization worldwide. But the CIA subverted CENTAC too: as CENTAC chief Dennis Dayle famously said, “The major targets of my investigations almost invariably turned out to be working for the CIA.”¹⁹

Murder and Mayhem

DEACON 1 inherited BUNCIN's anti-Castro Cuban assets from Brigade 2506, which the CIA had organized to invade Cuba in 1960. Controlled by Nixon's secret political police, these CIA assets, operating under DEA cover, had parallel assignments involving "extremist groups and terrorism, and information of a political nature." ²⁰ DEACON 1's downfall, however, had more mundane origins and began when overt agent Bill Logay charged that covert agent Bob Medell's anti-Castro Cuban assets had penetrated the DEA on behalf of the Trafficante organization. In other words, the CIA was using its narco-terrorists to spy on the DEA, so it could better protect its anti-Castro Cuban narco-terrorist networks. DEACON 1 secretary Cecelia Plicet fanned the flames by claiming that Conein and Medell were using Principal Agent Tabraue to circumvent the DEA, and thus more easily bring drugs into the country. In what amounted to an endless succession of controlled deliveries, all monitored by the CIA, Tabraue financed loads of cocaine and used DEACON 1 assets to smuggle them into the US. Plicet told me that Medell and Conein worked for "the other side" and wanted the DEA to fail. These accusations prompted yet another cover-up, in which Logay was reassigned to the DEA's Inspections staff and Medell was replaced by Gary Mattocks, an NIO member of the Dirty Dozen. According to Mattocks, Western Hemisphere Division Chief Ted Shackley (whom Mattocks had worked for in Vietnam) helped Colby set up DEASOG and brought in "his" people, including Tom Clines, whom Shackley placed in charge of the CIA's Caribbean Operations Group. Clines, like Shackley and Bolten, knew all the exile Cuban narco-terrorists on the DEASOG payroll. CIA officer Vernon Goertz, notably, worked for Clines in Caracas as part of the CIA's parallel mechanism under DEASOG cover. As cover for his DEACON 1 activities, Mattocks set up a front company designed to improve relations between Cuban and American businessmen. Meanwhile, he hired members of the Artime organization, including Watergate burglars Rolando Martinez and Bernard Barker, and Che Guevara's killer, Felix Rodriguez. These anti-Castro narco-terrorists were allegedly part of a hit team that Shackley and Clines employed for private as well as professional purposes a distinction no longer relevant in the 21st century. In late 1974, DEACON 1 finally expired when Robert Simon's daughter was murdered in a drive-by shooting by Mattocks' crazed anti-Castro Cubans. Simon at the time was managing the CIA's drug data base and had linked the exile Cuban narco-traffickers with "a foreign terrorist organization." As Mattocks explained, "It got bad after the Brigaders found out Simon was after them." It was bad, yes, but it was business as usual, and none of the CIA's narco terrorists were arrested for murdering Simon's daughter. Instead, Conein issued a directive prohibiting DEACON 1 assets from reporting on domestic political affairs or terrorist activities. The murder was swept under the carpet for reasons of national security. DEACON 1 unceremoniously ended in 1975 after Fred Dick was assigned to head the DEA's Caribbean Basin Group. In that capacity Dick, who hated Seymour Bolten, visited the DEACON 1 safe house and found, in his words, "a clandestine CIA unit using miscreants from Bay of Pigs, guys who were blowing up planes." Dick hit the ceiling and in August 1975 DEACON I was terminated. No new DEACONs were initiated and the rest quietly ran their course. Undeterred, the CIA redeployed its anti-Castro Cuban miscreants to the terror organization CORU in 1977. Others would go to work for Ollie North in the Reagan regime's Iran-Contra narco-terror network. Conein's IGO was disbanded in 1976 after a grand jury sought DEACON I intelligence regarding several drug busts. But, as noted earlier, CIA-acquired intelligence cannot be used in prosecutions, and the CIA refused to identify its assets in court, with the result that 27 prosecutions were dismissed on national security grounds. Gary Mattocks was thereafter unwelcome at the DEA. But his patron Ted Shackley had become DCI George H. W. Bush's assistant deputy director for operations, at which point Shackley rehired Mattocks into the CIA and assigned him to the CIA's narcotics unit in Peru. At the time, drug kingpin Santiago Ocampo was purchasing cocaine in Peru and his partner Matta Ballesteros was flying it

to the usual Cuban miscreants in Miami. One of the receivers, Francisco Chanes, an erstwhile DEACON asset, owned two seafood companies that allegedly served as fronts in North's Contra supply network, receiving and distributing tons of Contra cocaine. Mattocks soon joined the Contra support operation as Nicaraguan guerrilla leader Eden Pastora's case officer. In that capacity Mattocks was present in 1984 when a CIA case officer handed pilot Barry Seal a camera and told him to take photographs of Sandinista official Federico Vaughn loading bags of cocaine onto Seal's plane. A dual CIA/DEA "special employee," Seal was running drugs for Jorge Ochoa Vasquez and using Nicaragua as a transit point for his deliveries. North asked DEA officials to instruct Seal to steal \$1.5 million in cash from Ochoa and deliver the money to the Contras instead. When the DEA officials objected, North leaked a blurry photo to the right-wing Washington Times. Purportedly taken by Seal, the photo showed Vaughn loading cocaine onto the plane. For partisan political purposes, North blew the DEA's biggest case at the time. And the DEA did nothing about it, even though DEA Chief Jack Lawn said in 1988, in testimony before the Subcommittee on Crime of the Committee on the Judiciary, that leaking the photo "severely jeopardized the lives" of agents.²¹ The criminal conspiracy climaxed in 1989 when the CIA instructed Gary Mattocks to testify as a defense witness at the trial of DEACON 1's Principal Agent Gabriel Tabraue. Although Tabraue had earned \$75 million from drug trafficking while working as a CIA/DEA asset, the judge declared a mistrial based on Mattocks' testimony. Tabraue was released without a scratch. Some people inferred that President George H.W. Bush had personally ordered Mattocks to torpedo the case. Other examples of the CIA's use of narco-terrorists abound. In 1981, for example, DEA Agent Dick Salmi recruited Roberto Cabrillo, a drug smuggling member of CORU, another organization of crazed Cuban exiles formed by Frank Castro and Luis Posada while George Bush was Director of Central Intelligence. The DEA had arrested Frank Castro in 1981, but the CIA engineered his release and hired him to establish a Contra training camp in the Florida Everglades. Castro's colleague, Luis Posada, reportedly managed drug shipments for the Contras in cahoots with Felix Rodriguez. Charged in Venezuela with blowing up a Cuban airliner and killing 73 people in 1976, Posada was shielded from extradition by President George W. Bush in the mid 2000s. Having been castrated by the CIA, DEA officials could only ask their CORU assets to please stop blowing up people like Orlando Letelier in the US. They could maim and kill people anywhere else, just not here in the Happy Homeland. By then, Salmi noted, the Justice Department had a special "gray-mail section" to fix cases involving CIA terrorists and drug dealers.

The Joke Is On You

Director of Central Intelligence William Webster formed the CIA's Counter Narcotics Center (CNC) in 1988. Staffed by over 100 agents, it ostensibly became the springboard for the covert penetration of, and paramilitary operations against, top traffickers protected by high-tech security firms, lawyers and well-armed private armies. Under CIA political control, the CNC brought together every federal agency involved in the illusory war on drugs. Former CIA officer and erstwhile Operation Twofold member, Terry Burke, then serving as the DEA's Deputy for Operations, was allowed to send one liaison officer to the CNC. The CNC quickly showed its true colors. In late 1990, Customs agents in Miami seized a ton of cocaine from Venezuela. To their surprise, a Venezuelan undercover agent said the CIA had approved the delivery. DEA Administrator Robert Bonner ordered an investigation and discovered that the CIA had, in fact, shipped the load from its bulging warehouse in Venezuela.²² The "controlled deliveries" were managed by CIA officer Mark McFarlin, a veteran of Reagan's terror campaign in El Salvador. Bonner wanted to indict McFarlin, but was prevented from doing so because Venezuela was in the process of fighting off a rebellion led by leftist Hugo Chavez. This same scenario has been playing out in

Afghanistan for the last 15 years, largely through the DEA's Special Operations Division (SOD), whose sole purpose is to provide cover for CIA operations worldwide. The ultimate form of imperial corruption, the SOD's job is not simply to "create a crime" as freewheeling FBN agents did in the good old days, but to "recreate a crime" so it is prosecutable, despite whatever extra-legal methods the CIA employs to obtain the evidence. That way, law enforcement agencies can make arrests without probable cause. As Reuters reported in 2013, "The unit of the DEA that distributes the information is called the Special Operations Division, or SOD. Two dozen partner agencies comprise the unit, including the FBI, CIA, NSA, Internal Revenue Service and the Department of Homeland Security. It was created in 1994 to combat Latin American drug cartels and has grown from several dozen employees to several hundred."²³ The utilization of information from the SOD, which like DEASOG operates out of a secret location in Virginia, "cannot be revealed or discussed in any investigative function" according to a DEA document cited by Reuters, which added that officials are specifically directed "to omit the SOD's involvement from investigative reports, affidavits, discussions with prosecutors and courtroom testimony." Agents are told to use "*parallel construction*" (my italics) to build their cases without reference to SOD's tips, which may come from sensitive CIA "intelligence intercepts, wiretaps, informants and a massive database of telephone records," Reuters reported. Citing a former federal agent, Reuters reported that SOD operators would, like Joey DiGennaro's CIA unit, tell law enforcement officials in the US to be at a certain place at a certain time and to look for a certain vehicle which would then be stopped and searched on some pretext. "After an arrest was made, agents then pretended that their investigation began with the traffic stop, not with the SOD tip, the former agent said." An anonymous DEA official told Reuters that this "*parallel construction*" approach is "decades old, a bedrock concept" for law enforcement seeking to avoid probable cause requirements. The SOD's approach does indeed replicate techniques from the early 1970s used in Operation TwoFold and Bolten's parallel mechanism. But it is a "bedrock concept" only in so far as revising reports in order to convict defendants, which was always conducted as unstated policy, is now official policy: no longer considered corruption, it is how your government manages the judicial system on behalf of the rich political elite. As FBN Agent Bowman Taylor caustically observed, "I used to think we were fighting the drug business, but after they formed the BNDD, I realized we were feeding it." The corruption was first "collateral" – a function of national security performed by the CIA in secret – but has now become "integral," the essence of an empire run amok. I'll elaborate on that, below.

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New Mexico governor says state could seek billions after DEA let fentanyl hit streets

By [SUSAN MONTTOYA BRYAN](#), [JIM MUSTIAN](#) and [JOSHUA GOODMAN](#) Associated Press

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ALBUQUERQUE, N.M. (AP) — New Mexico’s governor said Monday that state officials could pursue billions of dollars in civil damages after revelations that U.S. Drug Enforcement Administration agents repeatedly allowed shipments of fentanyl to flow into drug-plagued communities as investigators sought to build bigger cases.

Democratic Gov. Michelle Lujan Grisham vowed to take her outrage “right to the White House and Congress” to seek assurances the DEA is no longer using the risky law enforcement strategy in New Mexico — and that it is not being replicated elsewhere. Overdoses have surged in New Mexico, even as fentanyl deaths declined in other states.

“This is a stunning failure by the federal government,” the governor told reporters at a news conference in the state medical examiner’s office in Albuquerque, joining a host of state and local law enforcers and officials demanding answers. “It’s disgusting and despicable.”

The DEA did not immediately respond to a request for comment.

White House spokesperson Abigail Jackson noted that President Donald Trump has classified fentanyl a “weapon of mass destruction” and signed into law legislation **cracking down** on the synthetic opioid.

“Sadly, the United States is still recovering from Biden’s border crisis and the damage it caused,” Jackson wrote in an email to The Associated Press. “President Trump has totally secured the border and has taken bold actions to combat the scourge of fentanyl in American society.”

Related Stories

Lujan Grisham’s remarks came a week after **AP reported** that DEA agents repeatedly monitored — but did not seize — shipments of fentanyl as part of an effort to build bigger criminal cases between 2023 and 2025.

Current and former DEA agents, including whistleblower David Howell, told AP the strategy amounted to a gamble with public safety and may have violated U.S. Justice Department rules intended to safeguard the public.

The DEA initially denied Howell's allegations in a statement to AP. But the agency later called upon the Justice Department's independent watchdog **to conduct its own investigation.**

The fentanyl went unseized amid the deadliest drug epidemic in U.S. history and as the DEA led a public awareness campaign — "One Pill Can Kill" — emphasizing that even a few milligrams of the substance can be lethal.

New Mexico has responded swiftly to the revelations. Last week, the state's attorney general announced a **criminal investigation** to determine whether any federal officials broke state law by knowingly exposing New Mexico residents to the synthetic opioid.

"We're going to protect the rest of the United States from this kind of foul, 'I need a big case' effort no matter what the consequences," Lujan Grisham said. "We're angry because it's immoral."

Albuquerque Mayor Tim Keller said fentanyl represents his city's "No. 1 challenge," driving crime and homelessness and straining health care resources.

"Using us in some sort of uninformed, undisciplined experiment that's literally killing our people — that's what this is," he said. "This should outrage every single New Mexican."

Trump last week shared a link on his Truth Social page to an article attributing the scandal to the "Biden-run Justice Department." In a statement to AP last week, the Justice Department similarly said "the alleged conduct occurred under the Biden Administration's disastrous open border policies."

Howell first came forward during the Biden administration in 2023 — and was sidelined for doing so — but he continued to flag unseized fentanyl shipments as recently as last year, and the largest he documented happened two months into Trump's second term, a 1.8-million pill haul DEA learned about but did not intercept in March 2025.

Howell also revealed that the Justice Department in 2024 changed internal guidelines that had urged agents to seize fentanyl whenever "practicable," affording them more discretion to preserve longer-term investigations. Empower Oversight, the whistleblower advocacy group representing Howell, called on the Justice Department Monday to reinstate those earlier protocols so authorities "try to seize fentanyl whenever there is probable cause."

Lujan Grisham has criticized both administrations as not doing enough to stem the tide of fentanyl in New Mexico, and pointed to the death last year of a 15-month-old girl who reportedly swallowed some of her mother's drugs in Española, a town ravaged by grinding poverty and addiction.

HOMELAND SECURITY: THE PHOENIX COMES HOME TO ROOST

The Bureaucratic Method in Their Madness

By Douglas Valentine

Acronyms

CORDS: Civil Operations and Revolutionary Development Support: organization established in May 1967 under MACV, designed to coordinate U.S. military and civilian operations and advisory programs in South Vietnam

MACV: Military Assistance Command Vietnam

PRU: Provincial Reconnaissance Units: mercenary forces under the control of the CIA in South Vietnam

PIC: Province Interrogation Center

GVN: Government of Vietnam

VCI: Vietcong Infrastructure

High level bureaucrats like Dick Cheney and Donald Rumsfeld understand that political, economic and military power is harnessed through complex organizational structures. Their staffs are packed with people like Phoenix program creator Nelson Brickham, who know exactly how to do it. After 9/11, the Ultras began implementing their long-range plans to consolidate power. Bush signed the Homeland Security Act on 25 November 2002, creating the Department of Homeland Security (DHS) to coordinate the anti-terror elements of dozens of federal agencies. The Act created the policy making Homeland Security Council with four standing members: the president as chairman, along with the vice president, secretary of defense and attorney general. The Homeland Security Council is the National Security Council applied domestically. The Homeland Security Council can be understood as grander version of the Phoenix Committee in Vietnam, which consisted of the Deputy for CORDS (William Colby) as chairman, plus the CIA's station chief, MACV's assistant chiefs of staff for intelligence and operations, and the CIA chief of Revolutionary Development. The homeland security apparatus further evolved in May 2003 when, as part of the White House coordinating mechanism, Bush created the Terrorist Threat Integration Center (TTIC) under future DCI John O. Brennan. Based at CIA headquarters, the TTIC was staffed by counterterrorism experts from the CIA, FBI, DOD and DHS. It reported directly to the White House political staff, beyond public and congressional scrutiny. The apparatus congealed in late 2004, when the TTIC was renamed the National Counterterrorism Center (NCTC) and placed under the newly created position of Director of National Intelligence (DNI).³ Operating like a global Phoenix Directorate with a computerized blacklist of suspects, the NCTC has access to all military and law enforcement databases, foreign as well as domestic, which it skims for High Value targets. High Value targets are captured and incarcerated, and if possible, recruited as penetration agents at home and abroad. Failing that, they are placed on Obama's "kill list" and "neutralized" by the all-seeing "predator" drone or some CIA/Special Forces hit team packed with psycho killers. Instruments like the NCTC facilitate the merging of foreign and domestic counterterror operations. The NCTC collects, stores, and analyzes data on US citizens from every available surveillance data base as a "pre-crime" pacification effort. The CIA manages

the NCTC Operations Center, and if a suspected threat emerges, it is able to direct every homeland component, the same way it used Phoenix to coordinate every cooperating agency in Vietnam. The network extends from the White House into America's tiniest villages, and includes everyone from Congresspersons and corporate executives, to cops shooting black teenagers or chasing homeless veterans off the streets.

Parallel Mechanisms Within the federal bureaucracy, the Department of Justice (DOJ), CIA and military have their own separate chains of command, jealously guarded "parallel mechanisms" that exist apart from their "coordinated" homeland security functions. With 800 military bases around the world, its own legal system, and a budget that devours the highest percentage of federal taxpayer dollars, the military is the elephant in the room. Apart from a mutiny by the lower ranks, as happened in Vietnam, the military and its arms industry sidekicks will continue to be the driving force behind US aggression abroad and mass surveillance at home. The military's Northcom component is the backbone of the homeland security apparatus, alternately intimidating, assisting, and spying on its civilian counterparts. The National Security Agency (NSA) is the apparat's eyes and ears. Instituted by Bush after 9/11, the NSA's Terrorist Surveillance Program was ruled unconstitutional in 2006, but the lawsuit was dismissed on appeal and a similar program called PRISM now exists in its place. As revealed by whistleblower Edward Snowden, PRISM collects communications from major US internet companies.⁴ The DOJ operates its back-channel through the FBI's Joint Terrorism Task Forces (JTTF). Based in over 100 cities and at 56 FBI field offices, these Phoenix-style coordination centers focus on "upper tier" targets that cross state lines. The FBI defines the task forces on its website as "small cells of highly trained, locally based, passionately committed investigators, analysts, linguists, SWAT experts, and other specialists from dozens of U.S. law enforcement and intelligence agencies." The FBI has had "internal security" as its mandate since its inception, and in 1996 it launched its InfraGard program in Cleveland. InfraGard is a "nonprofit" organization serving as a public-private partnership between businesses and the FBI. It's a private sector Phoenix in which business people, college presidents, state and local law enforcement agencies, and other civil guardians funnel tips to the FBI to prevent hostile acts against America's "critical infrastructure". It operates in secret and has over 50,000 members. The ACLU described InfraGard as "a corporate TIPS program" and "surrogate eyes and ears for the FBI."⁵ Since 2003, the DHS – under FBI supervision – has shared responsibility for InfraGard assets. It is important to note that the FBI has no jurisdiction over the CIA, which, like the military, exists above and beyond the laws the rest of us must obey. But while the military is an elephant trampling on everyone, the CIA is the serpent in the garden. The CIA's back-channel is its Counterterrorism Center (CTC) network. Formed in 1986, it is a direct descendent of Operation Chaos (as outlined in Chapter 11: New Games, Same Aims). The CTC network operates globally through Phoenix-style Counterterrorist Intelligence Centers, in collaboration with the suborned military, police and intelligence services of infected nations. The unilateral CTC network has its own communications system and is used to bypass the DOJ, State Department and Pentagon, as well as the regular CIA bureaucracy. It has its own paramilitary Special Operations Unit that functions like a global PRU team. The CTC works with the CIA's Crime and Narcotics Center (CNC) to manage strategic aspects of the international arms and drug trade out of drug producing nations like Bolivia and Afghanistan. Supposedly there is a legal firewall between the CIA and domestic law enforcement organizations, just as Posse Comitatus laws once banned the military. The CIA, however, infiltrates officers within the FBI's Joint Terrorism Task Forces, and within the DHS. I've described elsewhere how the CIA infiltrated the DEA. CIA officers are not listed on anyone's organizational charts,

in accordance with their status as the Protected Few; but they're there. For example, four months after 9/11, DCI George Tenet personally arranged with New York City's Muslim-hating Mayor Michael Bloomberg to slip senior CIA officer David Cohen inside the NYPD as its deputy commissioner for intelligence. The New York Times and Daily News dutifully buried the story. As Matt Apuzzo noted, "Nobody questioned the wisdom of taking *someone trained to break the laws of foreign nations and putting him in a department responsible for upholding the rule of law* [my italics]. Nobody even checked out Cohen's hand-prepared résumé, which said he had a master's degree in international relations from Boston University.⁶ The misstatement itself was inconsequential. That it went entirely unquestioned was indicative of the lack of media scrutiny Cohen could expect in his new job."⁷ An expert on Israeli methods of repressing Palestinians, Cohen launched a private, Bloomberg-approved jihad against Muslims in New York City. As he explained: "In the case of terrorism, to wait for an indication of crime before investigating is to wait far too long."⁸

Concepts and Programs

Phoenix is the conceptual model for the DHS. Both are based on the principle that governments can manage societies through implicit and explicit terror. The strategic goal is to widen the gap between the elites and the mass of the citizenry, while expunging anyone who cannot be ideologically assimilated. Phoenix, like the DHS, was an organization that evolved. At the top was the Phoenix Committee. Under the Committee was a Directorate in Saigon, managed by a senior CIA officer with a staff of CIA, military, and State Department personnel. The Directorate coordinated intelligence gathering agencies and anti-terror operations in Vietnam's provinces (equivalent to states in America) and districts (counties). The DHS executive management team operates like the Phoenix Directorate, overseeing a jerry-rigged labyrinth of overlapping offices and directorates most Congresspersons can't unravel. Put another way, central power is held by the senior bureaucrats who run federal agencies. The bureaucrats in Washington are held in check by the states, which, as part of a republic, traditionally resist federal intrusion. As a result, the bureaucrats running the DHS (and their White House and Congressional sponsors) are constantly suborning acquisitive state legislators, governors and business leaders with federal pork. Briefly, the DHS has a deputy undersecretary for intelligence and analysis. This deputy reports to the DHS Secretary and manages the Office of Intelligence and Analysis (I&A), which consists of about 1000 analysts, many from contributing agencies. I&A coordinates intelligence with appropriate officials in state, local, tribal and territorial governments. More importantly, it runs vast agent networks like InfraGard with the private sector through what is called, without irony, the Homeland Security Enterprise. Complementing the Office of Intelligence is an Office of Operations Coordination and Planning which oversees the DHS National Operations Center (NOC). The NOC collects and "fuses" information from the same federal, state, territorial, tribal, local, social media, and private sector agencies as I&A. The DHS intelligence and operations offices work together to issue advisories and bulletins relating to perceived or provoked threats. They also organize specific but classified protective measures you have no right to know about. DHS has an Emergency Operations Center (EOC). The EOC is the culmination of decades of devolution, originally manifested as Civil Defense (famous for building bomb shelters and teaching grade school kids how to duck under their chairs in case the Russians nuked America) and later as the Federal Emergency Management Agency (FEMA). Absorbed within the DHS in 2003, FEMA and its predecessor outfits created "continuity of government" plans for press censorship and internment of suspected radicals in times of national crisis. The EOC's tentacles can be found in gentrified bomb shelters and corporate offices everywhere, secretly ingesting rumors about "security risks" by word of mouth and encrypted emails. The DHS has over

250,000 employees, including detectives it deploys within its own departments, every agency it coordinates, and every branch of the military. These DHS employees have vast discretionary powers, including the authority to open mail coming to US citizens from foreign nations whenever it's deemed necessary – another internal security measure once considered illegal. The DHS has another investigations unit that oversees international operations and intelligence functions. This unit has about 7,000 special agents operating in 200 US cities and 60 countries around the world. It works with the CIA and assigns agents to the FBI's Field Intelligence Groups, through which they jointly run vast informant networks. Several DHS investigation units maintain paramilitary Special Response Teams, which are very likely trained and managed by CIA paramilitary officers. The DHS has its very own counterterrorism unit, and a war crimes unit that assiduously avoids the CIA. When an Italian court indicted a group of CIA officers for kidnaping an innocent man in Milan and sending him to Egypt to be tortured, DHS agents looked away. Like FBI agents, DHS agents have no authority over the CIA, which is free to terrorize anyone, anywhere. Last but not least, the DHS has fusion centers which operate in every state and major city, just like Phoenix intelligence and operations coordinating centers were set up in Vietnam. Every law enforcement entity in a state or city sends a representative to the local fusion center, which tries to anticipate threats through analysis of shared intelligence. State and local police provide space and resources (including snitches) for the majority of the fusion centers. There is even a fusion center in Mexico City. The ACLU compared fusion centers with the corporate TIPS program because of the involvement of private Terrorism Liaison Officers (TLO). A TLO is a citizen trained to detect and report suspicious activities. TLOs function like the People's Intelligence Organization cadres mentioned in Chapter 16, paying close attention to what customers, passers-by and neighbors say, and then reporting "suspicious utterances" (or, when bored or nervous, inventing them) for entry into the proper database.⁹ By 2014, California had more than 14,000 TLOs. Some are cops, others are wannabe cops; paramedics, utility workers, railroad employees, etc.¹⁰ TLOs have been used to monitor Occupy Wall Street and Black Lives Matter protests and activists.¹¹ Fusion center employees occupy themselves by playing video war games and fantasizing about being armor-clad super heroes. When bored, they target political activists and despised minorities. The Missouri fusion center targeted supporters of Ron Paul, prolife activists, and so-called conspiracy theorists. Antiwar activists and Islamic lobby groups were targeted in Texas. A DHS analyst in Wisconsin targeted antiabortion activists; a Pennsylvania DHS contractor spied on environmental activists and a Second Amendment rally; the Maryland state police put anti-death penalty and antiwar activists in the FBI's database; and in 2009, the Virginia fusion center published a terrorism threat assessment identifying historically black colleges as potential hubs for terror related activity. It also identified hacktivism as a form of terrorism. Along with the FBI's task forces, fusion centers serve as cover for domestic CIA operations. This is nothing new, as the CIA has always placed officers inside state police forces and the Special Services (aka "Red Squad") units of police forces in major cities. CIA Chaos-style officers specialize in the recruitment of American citizens who travel abroad, as well as foreign students, diplomats, scientists and businesspeople willing to sell out their countries for an SUV or a pat on the back.

Homeland Security as Implicit Terrorism

Ultimately, the DHS is about protecting the haves from the have-nots, just like Phoenix coordinators were protecting large land owners from VCI revolutionaries fighting for agrarian reform. "It's the problem of supporting personalities rather than democratic institutions," Colonel Stan Fulcher explained

when we spoke in 1987, "The Vietnamese were victims of our corruption. We smothered them with money. It's the same thing you see in Central America today. You can't take a Salvadoran colonel in a patron army without the corruption he brings along." The billions of dollars pouring from your pay checks into the DHS "internal security" boondoggle are smothering America in corruption too. Given the dearth of actual terrorist acts in America, the Homeland Security Enterprise exists primarily to protect critical infrastructure assets in the private sector from disenfranchised citizens seeking justice and accountability from government and corporations. In this capitalist sense, DHS is the key component in the state-sponsored legal criminality Johan Galtung spoke about. "Personal violence is for the amateur in dominance," Galtung said, "structural violence is the tool of the professional. The amateur who wants to dominate uses guns; the professional uses social structure. The legal criminality of the social system and its institutions, of government, and of individuals at the interpersonal level, is tacit violence. Structural violence is a structure of exploitation and social injustice." Indeed, the stated goal of the Homeland Security Enterprise is the protection of critical infrastructure assets in the public and private sectors. Not the protection of people. To that end, the DHS assigns Intelligence Officers and Protective Security Advisors to fusion centers. This operation is run out of the DHS National Protection and Programs Directorate and focuses on physical (concrete blocks around buildings) and cyber security. Given that your chance of being killed by a terrorist is less than dying from a bee sting, this joint business venture has achieved nothing in terms of saving lives. Instead, fusion centers and their DHS managers function as political police enforcing the ultra-conservative, freewheeling capitalist ideology that drives corporate America. In advancing this ideology, DHS managers seek to promote public support for, and indeed, reverence toward, cops, soldiers and the Homeland Security Enterprise. They also generate the attendant apprehension within the general public that persons with contrarian views are suspect. You can count on DHS cadres not to support the Constitutional right of anyone, like pro football player Colin Kaepernick, who refuses to stand during the National Anthem. Like the Phoenix program it was modeled on, the DHS helps coordinate the systematic corruption and repression of grassroots American society on behalf of the rich political elite. Consider this: the Act that created the DHS stripped 180,000 government employees of their union rights – because there "might be" an emergency. On behalf of its private sector patrons, Congress eliminated civil service and labor protections for DHS employees, who can be reassigned or dismissed without notifying their union representatives. Emboldened by Congress, DHS executive management sought the power to override any provision in a union contract, but for some reason the federal courts blocked that attempt at union busting. The key stakeholders in the Enterprise are the owners of the private businesses that comprise the critical infrastructure of the National Security Establishment: anything related to war and law enforcement. Their intellectual partners occupy vastly overpaid management positions in elite law firms, hospitals, universities, nongovernmental organizations, and nonprofit groups looking to advance their careers while eliminating the competition. What CIA officer Lucian Conein said to me about Phoenix applies to Homeland Security: it's a great blackmail scheme for the central government: "If you don't do what I want, you're VC." This is what homeland security has become: a protection racket. At the strategic political level it consists of bankers and corporate lobbyists paying elected officials to create tax loop-holes for the rich, blanket domestic surveillance that compels working people to live in terror of being fired if they make suspicious utterances, and corrupt officials rewarding their arms industry contributors by laundering taxpayer dollars into the war machine. For stakeholders in the National Security Establishment, the Enterprise is the biggest boondoggle ever: and not just for the lavish public spending devoted to their military-defense projects; it is a dream come true for their cadres, too people like Bruce Lawlor and Rob

Simmons (see Chapters 15 and 16) who sold their souls to the CIA's Cult of Death, and also understand the arcane mechanics of internal security. Remember, the CIA believed that the US could win the Vietnam War through military force. But the Communists represented the interests of the people and for this reason, the people sided with them. In response, operators like Lawlor, Simmons and Frank Scotton recruited spies to map out the VCI's organization, and then targeted its "upper tier" leaders for neutralization. In the process of going after the enemy's political leadership, they terrorized the leadership's friends and families and supporters as well – the "lower tier" they sought to pacify through psychological warfare. The same pattern is unfolding in America. Homeland Security cadres, through the DHS and the various parallel mechanisms, are identifying and targeting the National Security Establishment's "political and administrative" opponents in America for neutralization. For upper tier dissidents it means being the target of "compromise and discreditation" campaigns launched by Ultras, often through deniable assets like the Association of Former Intelligence Officers (AFIO) and other Swift Boat-style organizations. Since the creation of the Homeland Security protection racket, over eight trillion taxpayer dollars has been moved from social programs into "internal security" programs that have provided the National Security Establishment with over 250,000 cadres to pacify the flag-waving American public. For the average American this means eternal debt and subservience, as their tax dollars are given to their "protectors". The psychological warfare aspect of the pacification program is handled by network news and Hollywood, which erase historical memory and with it, any moral imperative on the part of average Americans to pretend they don't live in segregated communities; all that matters is dominance over some Other, and anyone can dominate others by becoming a spy for homeland security..... Many are veterans who learned pacification techniques while conducting the house-to-house searches that turned Afghanistan and Iraq into human catastrophes unreported in the US press. They even refer to themselves as "door kickers" Madeleine Albright as US Ambassador to the United Nations acknowledged that US sanctions on Iraq had led to the death of half-a-million children. "We think the price is worth it," she said. The same phenomena occurred in July 2016, when police arrested people for criticizing cops on Facebook and Twitter, after the shooting of Dallas cops..... The message is clear to the friends and families of the targeted and arrested people: you are free, up to the point you actually express your freedoms. The purpose of such psyops is to make you believe the authorities know everything about you and will use that information to destroy you.....The counterterror teams created in Vietnam have been perfected and expanded; military veterans populate DHS and police SWAT teams. Many of these vets can't wait to relive their heroic experiences rousting Muslim families in their homes in Iraq and Afghanistan. The PIC program is the model for the network of black sites, detention centers, prisons and jails America builds in every nation it occupies. At the Guantanamo facility in Cuba, the CIA has perfected torture and now punishes suspects by slowly driving them insane. Same thing here. The DHS operates detention centers for illegal immigrants, but not their employers. Empty detention centers on military reservations await the sort of national crisis the CIA routinely provokes overseas to justify military intervention – at which point thousands of citizen suspects on dozens of blacklists shall be rounded up and interned. Administrative detention is the legal nail upon which the pacification of America hangs. In Vietnam, suspects were carted between interrogation centers, detention centers and jails until they confessed, died or defected. Survivors were sent to a military tribunal or a CIA-advised, Stalinist security committee for disposition; for High Value convicts that meant imprisonment on Con Son Island, ninety miles off the southern tip of South Vietnam. Con Son with its tiger cages was the model for Gitmo. In September 1969, the CIA formed the Central Security Committee (CSC) in Saigon to dispose of citizens arrested under the administrative

detention laws. The Central Security Committee was chaired by the Prime Minister and included the Director of Corrections, the director general of the National Police, and five prison wardens. It reviewed cases of Communist offenders considered for conditional or early release. Unless a substantial bribe was paid, the Committee always recommended further detention. It is noteworthy that the National Assembly tried to abolish the CSC in December 1970 – without success. If you don't think it can happen here, think again. Donald Bordenkircher headed the CORDS prison system in Vietnam and served as chief advisor to the Director of Corrections. Bordenkircher began his career in 1957 as a correctional officer at San Quentin State Prison. By 1967 he was an assistant warden. Recruited that year by the Agency for International Development's Office of Public Safety (a frequent cover for the CIA), he spent five years "improving" conditions in Vietnam's prisons and jails. "We were doing a magnificent job with the prisoners and the rest of the war," he claimed.¹⁴ The problem, he said, was that liberal politicians in Washington "handcuffed" the military. After Bush invaded Iraq, Bordenkircher at age 69 volunteered to help bring that benighted nation under American rule. As with many Vietnam veterans, he was dying to win one. He became a contractor with the Department of Justice and, as National Director of Operations for all prisons in Iraq, got the job of shutting down Abu Ghraib. "I was in charge of a team that went into the prison often," he said. "After reading and looking at everything and talking to a hell of a lot of people, I came to the conclusion there wasn't a lot of brutality caused by American troops at Abu Ghraib." Today, the penal system in America resembles the prison regimes it imposed upon Vietnam, Iraq and Afghanistan. The same jailers with the same Ultra attitudes are in charge here, and they are doing well; like the War on Terror, incarceration is a growth industry. Since Nixon declared war on drugs in 1970, the prison population has grown from several hundred thousand to several million, mostly blacks. According to the ACLU, one in 31 adults is in prison or jail, on parole or probation. With only 5% of the world's population, America has 25% of the world's prison population. Ask yourself, how can we be the land of the free and simultaneously the world's largest jailer with its highest per capita incarceration rate? Private as well as publicly-owned prisons are a cornerstone of the critical infrastructure industry of domestic repression, as well as a boundless source of wealth for investors in the legally criminal Homeland Security apparatus. Seen from this pro-business perspective, administrative detention is the growth industry of the future; along with the plea-bargain boondoggle, it is how the National Security Establishment will keep jails packed with people who aren't guilty of any crime.....and "the populace was encouraged to report the activities of the VCI by dropping a note addressed to the police in local mailboxes." This method was credited with approximately 40% of the information used in Phoenix operations in one province. Psyops in support of Phoenix proved to be such a potent weapon in the attack on the VCI that in August 1970, the Pentagon's Special Assistant for Counterinsurgency and Special Activities described Phoenix as "the number one MACV PSYOPS priority." At the same time, Congressional investigators revealed that the CIA used the Phoenix program as "an instrument of mass political murder" to neutralize politicians and activists who opposed the puppet regime or espoused peace.¹⁵ Five years later, the Church Committee revealed the extent of the FBI's similar attempts to suppress the Communist Party in the United States, which it claimed controlled the antiwar and civil rights movements. The FBI used the same kind of illegal operations Phoenix used in Vietnam: spreading lies and using forged documents to break up marriages and otherwise harass people into submission. FBI agents were able to persuade college administrators to prevent dissidents from giving public addresses. There was no evidence that any of them were Soviet agents fomenting armed rebellion; it was their ideas about a just society the FBI was trying to stamp out, along with the First Amendment..... And with advances in technology and 40 years to learn from mistakes, political

neutralizations are easier than ever. Consider the anthrax letters mailed to Democratic senators after 9/11, now recognized as an inside job.¹⁶ It took only a few “black propaganda” terror operations to silence the political opposition’s leadership and its resistance to the Patriot Act. Information management – including official secrecy and false accusations is the key to pacifying the people through implicit terror, while making the internal security apparatus appear legal, moral and popular. This is being done against American citizens through the most ambitious psywar campaign ever waged on planet Earth. Another essential ingredient of psychological warfare is properly indoctrinating and organizing political cadres. As Michael Ledeen, former employee of the Pentagon, the State Department and the National Security Council (and involved in the transfer of arms to Iran during the Iran-Contra affair), stated in the days after 9/11, “New times require new people” with the will power to “stamp out” the “corrupt habits of mind” manifest in the thoughts or actions of anyone who can’t be assimilated into the Business Party or opposes its aggression disguised as the War on Terror. The military has a lot of experience training political cadres. Soldiers slated to participate in Phoenix were given the CIA’s patented “motivational indoctrination” course at Fort Bragg. They were the first political cadres to infiltrate the American military. In return for adopting the Business Party line and violating the laws of warfare by targeting civilians, a successful career was guaranteed. As noted, several CIA and military Phoenix veterans have held important DHS posts. The first chief of DHS counter narcotic operations, CIA officer Roger Mackin, ran Special Police operations in Da Nang. At Fort Bragg, CIA psywar experts taught Phoenix advisors how to wage political warfare. In the early 1980s CIA officer Duane Clarridge had the training manual translated into Spanish and reprinted for use in the Reagan régime’s illegal Contra War. Titled “Psychological Operations in Guerrilla Warfare”, it stated that “the human being should be considered the priority objective in a political war. And conceived as the military target of guerrilla war, the human being has his most critical point in his mind. Once his mind has been reached, the ‘political animal’ has been defeated, without necessarily receiving bullets.” DHS cadres pass through the same motivational indoctrination courses before they hit the streets. DHS cadres in turn instruct civilian “critical infrastructure” personnel on how to spy and report on colleagues who serve as “terrorist surrogates” by even inadvertently revealing information on infrastructure vulnerabilities. DHS spies monitor private sector terror suspects until it comes time to expose them in the media as being under investigation. The most intimate details of a person’s private life, all of which are known through blanket surveillance, become his or her greatest liability. Extramarital affairs, medical marijuana use, or mental health care are revealed, leading to a target being neutralized. In the absence of vulnerabilities, the CIA’s Dark Army of computer hackers can create them. Through highly refined motivational indoctrination methods, complacent Americans are converted into Ledeen’s “new people” who idolize the CIA, FBI, NSA and DHS. People who aren’t DHS cadres but wish to serve the Ultra cause join “front” organizations like the Citizen Corps, or the Office of Social Innovation and Civic Participation, or Community Emergency Response Teams. The ever popular Neighborhood Watch Program supplies overly-aggressive cops at fusion centers with the false rumors they need to detain activists as terrorist surrogates. The Medical Reserve Corps gives overpaid doctors working in hospital emergency rooms the chance to identify suspects among the masses of poor people falling through the safety net at the bottom of the jerry-rigged health care system. The pressure to join the new legions is irresistible. When Bush announced the DHS on 6 June 2002, he stressed that its primary mission was to “mobilize and focus” the American people “to accomplish the mission of attacking the enemy where he hides and plans.” By which he meant having Ledeen’s “new people” root out the enemy within, just as the CIA roots out insurgents in the colonies. The most highly motivated cadres are trained “in techniques of

persuasion over control of target groups” as outlined in “Psychological Operations in Guerrilla Warfare”. In the next national emergency, these cadres will be mobilized, attend mass meetings, carry placards, shout the proper slogans and, if necessary, grab ropes and form lynch mobs. Theoretically, only five percent of the population needs to be organized in this fashion in order to wield control over the indifferent 90% and defeat the five percent that form the resistance. Waging this type of psywar is the maximum danger posed by the Homeland Security apparatus. Blackmail is the key. Hundreds of businesses and institutions across the country have already been placed on the consolidated Terrorist Watch List. One Bush official said that merely being on the list “could destroy the livelihood of all those organizations ... without a bomb being thrown or a spore of anthrax being released.”¹⁷ Blacklists abound: the TIPOFF blacklist; the No-Fly blacklist; the CAPPS II blacklist which uses credit card information and secret databases to assess a person’s security risk level; and local blacklists like the one kept by the Denver police department.¹⁸ And the secret ones you don’t know about. Initially, the proliferation of blacklists had “the leaders of many federal departments and agencies scrambling to figure out how they could influence [Homeland Security] without appearing disloyal.”¹⁹ Writing for USA Today in 2002, James Bamford cited a Knight Ridder report saying that, “A growing number of military officers, intelligence professionals and diplomats privately...charge that the administration squelches dissenting views and that intelligence analysts are under intense pressure to produce reports supporting the White House’s argument that Saddam poses such an immediate threat to the United States that preemptive military action is necessary.”²⁰ If a dissident or resistant bureaucrat has no past indiscretions, forged documents are used. One political opponent jailed in Vietnam by President Thieu revealed the existence of “a systematic campaign of vilification by use of forged documents.” Forged documents used to justify false arrests or conceal illegal operations often emerged as “captured documents.” A legislative aide working for the Senate committee investigating Phoenix in 1970 wryly observed that, “There seems to be captured documents to prove any point or to support, retrospectively, almost any conclusion.”²¹ If what’s past is prologue, in the forthcoming national emergency, the paranoia that currently infects the Muslim American community will spread nationwide until no one is sure who is a spy for the Thought Police. Midnight arrests and disappearances into detention centers will be commonplace, as the definition of a terrorist surrogate expands to include people deemed dangerous to the Public Order. As Ambassador Ellsworth Bunker wrote in 1972 about a secret emergency decree issued by the GVN: “This means that virtually any person arrested can now be held on criminal instead of political charges.”²² No specific charge is required: a DHS spy will accuse his neighbor, the one whose dog poops on his lawn, of disturbing the public order; off the unlucky fellow goes into the local Gitmo. Last but not least, the crime of sedition will be resurrected and expanded to include disseminating information about government corruption and undermining the will of the State by challenging its authority. Calling for civil disobedience will be equated with threatening Homeland Security. Cadres in the Office of Cyberspace Security will expose you as a terrorist surrogate for sending sarcastic or satirical emails blaming Bush and Israel for 9/11. In the absence of actual “utterances”, cadres will manufacture them. Don’t laugh. Anti-terror legislation passed by Congress allows for secret searches of the homes of people who meet the nebulous criteria of “suspected terrorist.” Because these secret searches violate the Fourth Amendment, the government is devising “new tools that ease administrative burdens.”²³ Remember, CIA legal experts argued that Article 3 of the Geneva Conventions applies “only to sentencing for crimes, and does not prohibit a state from interning civilians or subjecting them to emergency detention when such measures are necessary for the security or safety of the state.” In this way indefinite detention, torture and summary execution, all carried out without

previous judgment pronounced by a regularly constituted court, are perfectly legal in the criminal Homeland Security state, because they result from “administrative procedures.” This is Phoenix, and this is what the National Security Establishment has in store for America.

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August 25, 2002

Flight of the Phoenix From Vietnam to Homeland Security

Douglas Valentine

"The implication or latent threat of force alone was sufficient to insure that the people would comply..."

William Colby, RIP

Imagine my surprise to learn that the Bruce Lawlor is serving as the Office of Homeland Security's Senior Director for Protection and Prevention!

I say this in a blatantly exclamatory fashion because I interviewed Lawlor for my book, The Phoenix Program, back in 1988, when he was just a small town lawyer in Vermont. Poor Bruce. He's always had big ambitions, and he'd run for attorney general of Vermont in 1984. But, as he told me with abiding bitterness, his political opponents exploited his self-proclaimed participation in the CIA's Phoenix Program in Vietnam. The bastards had used that awful fact to launch a successful smear campaign against him. And yes, he'd lost the primary election as a result.

Nearly 20 years later Lawlor is still licking his wounds, and there's no doubt that he holds a major general's grudge against the pacifists and peaceniks who smeared him with Phoenix. So now I'm wondering, what's he got in store for people like me?

Here We Go Again

Having former CIA Phoenix officers in important government positions is nothing new in America. I refer you to Congressman Rob Simmons, a friend of Lawlor's, whom Lawlor describes as a "liberal". Simmons, good liberal Episcopalian that he is, ran a CIA Province Interrogation Center in Vietnam. (See The Spook Who Would be a Congressman.)

Having potential war criminals in positions of power is nothing new, but I'm one of those people who believe that all former CIA officers—especially those involved in "extra-legal" counter-terror programs like Phoenix—should not be allowed to hold public office. I believe this, because the CIA is antithetical to democratic institutions. And that's why I was so surprised to see, that the guy I knew as "Bruce", is now Major General Lawlor, and a top-ranking official in the ominous Office of Homeland Security. By which I mean, he's someone who has access to Ashcroft's political blacklist, and he has control over the covert action teams that can be used to neutralize those dissidents.

To get right to the point, I have a sneaking suspicion that Lawlor, like Simmons, is still working for the CIA, and thus poses a major threat to democracy in America.

One of the reasons I have this crazy feeling, is that nowhere in any of Lawlor's official looking, on-line biographies is there any mention of his CIA service. It's like his biographers are deliberately trying to hide his CIA connection from us.

For example, The Executive Session on Domestic Preparedness, "a standing task force of leading practitioners and academic specialists concerned with terrorism and emergency management"

(sponsored by Harvard's JFK School of Government, the Department of Defense, and the Department of Justice), posted an official biography of Major General Bruce M. Lawlor. They mention that he was the "first" commanding general of the Joint Task Force Civil Support (JTF-CS) located at Fort Monroe. This is extremely important, because the JTF-CS was formed specifically to provide "command and control over Department of Defense consequence management forces in support of a civilian Lead Federal Agency (the CIA?) following a weapon of mass destruction incident in the United States, its territories or possessions (*italics added*)."

This sounds an awful lot like a prelude to the terror attacks of 11 September, and I'll raise the subject of the JTF-CS in a bit, but for now I'd like to point out that nowhere do Lawlor's friends from Harvard (he's a graduate of Harvard's National Security Fellows Program) or the Departments of Defense and Justice, say that Lawlor was once a CIA officer. (Please see <https://ksgnotes1.harvard.edu/BCSIA/ESDP.nsf/www/Contact>)

Likewise, in an earlier biography posted on the Internet, Lawlor was said to be "assigned as the Deputy Director, Operations, Readiness and Mobilization within the Office of the Deputy Chief of Staff for Operations and Plans in May 1998. As Deputy Director he monitors Army operations worldwide and oversees National Guard and Reserve Forces Integration efforts."

This too is incredibly important, and relates directly to the terror attacks of 11 September, in so far as the National Guard and Reserves are integral parts of Northcom, the military component of the forthcoming Department of Homeland Security, which will manage the "pacification" of the American people. But before we get into that, let's proceed with the problem of Lawlor's official biographies. In this particular biography, which was posted in November 2000, it says "The General's military service began in 1967. After service in Vietnam from 1971 to 1973, he received a Direct Commission in 1974 as an Intelligence Officer."

Once again, and rather conspicuously, there is no mention that Lawlor was a CIA officer in Vietnam. In fact, you get the feeling that he was in the military. You might go so far as to say that the folks at Homeland Security are dissembling, in order to hide the fact that one of their most senior officers probably still is a CIA officer!

Why would Lawlor consent to this subterfuge, if, in fact, he is an honorable man?

The Phoenix Program

I first read about Lawlor in *Everything We Had* by Al Santoli. I was researching the Phoenix Program at the time, and Santoli's interview with Lawlor was in a section titled "The Phoenix". Santoli identified Lawlor as having been a CIA case officer in I Corps, from November 1971-December 1973, and he quoted Lawlor as saying that in order to win the Vietnam War, "what we had to do was get in and eliminate the ability of the VC to control or influence the people. That's what pacification was all about. The buzzword was "root out." We tried to go in and neutralize their political structure."

For those who are unfamiliar with Phoenix and its jargon, "neutralize" meant to assassinate, imprison, or turn someone into a defector or double agent.

Lawlor apparently made some very provocative statements to Santoli, including this one: "We permitted the Vietnamese to corrupt the system and we did it because we basically were corrupt ourselves." Lawlor's position about Phoenix seemed to be that it was "an extermination program" that was "used to settle old scores."

In an effort to find out if this was Lawlor's position, I wrote to him and requested an interview. Lawlor agreed, and we did taped interviews, portions of which I included in my book, *The Phoenix Program*, between pages 407-411.

What Lawlor told me basically confirmed everything Santoli had attributed to him. Except there were some additional, startling details. To begin with, Lawlor told me that he joined the CIA in 1967, while he was getting his BA at George Washington University. The CIA hired him to work the night shift, and after he graduated, he was given the chance to become a regular CIA staff officer. He took the paramilitary course, which included instruction in weapons and military tactics, but he was also trained as a foreign intelligence officer, the kind who manages secret agents. After that he was assigned to the Vietnam Desk at Langley headquarters, where he received specialized training in agent operations in Vietnam, and took a language course in Vietnamese. During this time, Lawlor formed a rapport with the Vietnam Desk officer, Al Seal, and when Seal was assigned as the base chief in Danang, he asked that Lawlor accompany him. Lawlor, notably, was just as gung-ho about fighting the Viet Cong as John Kerrey. (See [Bob Kerrey, the CIA and War Crimes](#).)

Lawlor arrived in Vietnam in November 1971 and was assigned as an undercover staff officer at the US Embassy's translation section. He arrived in Danang a few weeks later, at the beginning of 1972, and was assigned to regional headquarters, in the counter-intelligence office. He worked at that job through the Easter Offensive of 1972, but then things changed dramatically. Lawlor became the Police Special Branch advisor in Quang Nam Province, in which capacity, in the summer of 1972, he did what Rob Simmons had done in nearby Quang Ngai Province; he organized the most aggressive Special Branch officers into a paramilitary Special Intelligence Force Unit that hunted members of the Viet Cong Infrastructure in the hamlets and villages. As advisor to the Special Branch, Lawlor also ran the Quang Nam Province Interrogation Center, and there got to know the CIA's regional PRU advisor, Patry Loomis. Bored with merely filing reports, Lawlor jumped at the chance, when Loomis asked him if he'd like to out on some PRU operations. That's when Lawlor started dressing in tiger fatigues and going out on ambushes, and traditional PRU "snuff and snatch" operations.

For those unfamiliar with Phoenix lexicon, the PRU—Provincial Reconnaissance Unit—Program was a unilateral CIA operation, formed by the CIA, paid by the CIA, and staffed by mercenary Vietnamese who worked for the CIA, often against the interests of their own government. The PRU were originally called "counter-terror teams" and, according to Nelson Brickham (the man who created the Phoenix program) their job was to go into VC areas "to do to them what they were doing to us." Which means mutilating people, sticking their heads on poles after they were killed, killing the families of suspected VC terrorists or political chiefs, and other unconventional CIA terror tactics.

After the 1972 Easter Offensive the PRU were ostensibly placed under the jurisdiction of the Special Branch, and were renamed Special Reconnaissance Units. At this point the CIA still controlled the PRU purse strings, but it wasn't providing as much money and as a result, it lost a certain amount of control over the PRU leadership. The top ranking Vietnamese PRU officers turned

to graft, drug dealing, and shakedowns to make up the differential. Very bad things started happening. On one unforgettable occasion Lawlor walked into the Hoi An Interrogation Center and saw that a woman, who knew about the regional PRU chief's dirty dealings, had been raped and murdered. Her body was stretched over a table. "All of a sudden," Lawlor told me, "Mr. (Phan Van) Liem (the PRU chief) wants me to go on a mission with him, and the other PRU guys are telling me, 'Don't go!'"

This may seem a minor detail to the people at Homeland Security, or then again, it may be one reason why Lawlor's resume is so lacking in CIA information. You see, all CIA Province Interrogation Center advisors were obligated to report any incidents of torture, murder, or abuse they witnessed. So, where's Lawlor's report?

I believe Lawlor probably filed a report. Back in those rough and tumble Phoenix fighting days he was a man of conscience. For example, when Seal was replaced as the CIA's Regional Officer in Charge (ROIC) of I Corps, the new ROIC, Tom Flores, brought in a new staff. Having worked in the region's counter-intelligence office, Lawlor knew that an NVA spy ring still existed in the area, and that one of these NVA agents was the girl friend of Flores' operations chief. When Lawlor reported this to Flores, he was accused of having "gone native." So Lawlor told the CIA's security chief in Saigon, at which point his office furniture was confiscated and he was handed a ticket home.

"After that I became disillusioned," Lawlor confessed. He tendered his resignation to Ted Shackley in 1974. "The agency betrayed us," he said. "To go after the VCI, we had to believe it was okay. But we were too young to understand what happens when idealism cracks up against reality. We risked our lives to get information on the VCI, information we were told the President was going to read. Then guys who didn't care gave it to superiors more interested in booze and broads."

That's what Bruce Lawlor said to me back in 1988. He was definitely embittered, but there's something weird about him that makes him keep going back for more. When former Director of Central Intelligence William Colby heard that the Phoenix smear campaign had cost Lawlor the 1984 election in Vermont, he offered Lawlor his moral (as it was) support. Lawlor was summoned to Langley and interviewed for a job in the freewheeling Special Operations Division, which was then breaking every international law in places like Nicaragua and Afghanistan. But details of the "gone native" incident surfaced, and Lawlor was not, to his immense disappointment, rehired by the CIA.

Reprisal is the Name of the Homeland Security Game

People look for vindication in many different ways. Take, for example, the reaction of the right wing to America's humiliating defeat at the hands of the Vietnamese. Phoenix creator Nelson Brickham compared that reaction to the frustration and bitterness of the German nation after the First World War. As we all know, that frustration and bitterness enabled Hitler to do his thing.

Since the terror attacks of 11 September, we've seen the same phenomena here in America. Symbolically, that traumatic event wiped the slate clean. As a result, all the moral and psychological prohibitions on the reactionary right have been lifted, and all the anger and frustrations it cultivated during the Vietnam War, and the Carter and Clinton Administrations, is poised to be unleashed under the aegis of counter-terrorism, not only on the usual suspects—

foreign enemies sitting on vast oil reserves, suspected terrorists, and domestic dissidents—but on the unwitting, flag-waving American public as well.

I happen to believe that Bruce Lawlor is one of those frustrated, bitter people. And I believe that he subscribes to the fascist theories of Michael Ledeen. A former counter-terror expert in the corrupt Reagan Regime's State Department and National Security Council, Ledeen in a 1 October 2001 article for the National Review blamed the terror attacks of 11 September on Bill Clinton, "for failing to properly organize our nation's security apparatus."

According to Ledeen, Clinton's sneering lack of respect for security took "a terrible toll on the system, and (Tom) Ridge will not find it easy to instill a proper respect for proper secrecy, even in his own offices. It takes quite a while to stamp out corrupt habits of mind and action."

Ledeen's solution to the problem of domestic terrorism is ideological. It is "to stamp out" the "corrupt habits of mind (*italics added*)" that are still lingering around, somewhere. In other words, the reactionary right wing, as represented by the fascist Bush Regime, with its ambitions for a military dictatorship, must impose its "proper" ideology through the institution of an official Thought Police—the current Office of Homeland Security and the forthcoming Department of Homeland Security. Stamping out, or pacification, is what is required to create the politically correct, security conscious, uniform American citizenry, marching in lockstep with their fellow flag waving TIPsters, that is necessary to win the tough eternal war on terror that lies ahead. It's a matter of will power.

"This is time for the old motto, "kill them all, let God sort 'em out." New times require new people with new standards," Ledeen asserts. "The entire political world will understand it and applaud it. And it will give Tom Ridge a chance to succeed, and us to prevail."

It's obvious that many people with an axe to grind are jumping on the Homeland Security bandwagon. Knowing this, and fearing that Bruce Lawlor is of the Ledeen "reprisal" persuasion, I immediately tried to get an interview with him. I called his office at 202-456-5687 and spoke with his secretary. She said he would call me back, but he hasn't responded.

I know he was angry with me after The Phoenix Program was published. He did not like how I portrayed the CIA, or him, personally. He was so upset he helped a CIA-nik write a rebuttal to my book. So I'm a little concerned, not just for myself, but for anyone who opposed the Vietnam War, and now opposes the Bush Regime's blatantly fascist policies at home and abroad. So I'm writing this as an open letter to General Lawlor.

As far as I know, General Lawlor, we still live in a democracy. Although the Bush regime seems hell bent on using the uninvestigated terror attacks of 11 September as a pretext to turn America into a military dictatorship, we are not yet (as far as I know) under martial law. Public officials, like you, still have a responsibility to respond to our concerns. So speaking on behalf of people concerned by the gaping window of opportunity for the abuse of human rights and civil liberties presented by the corrupt Bush Regime, through its Homeland Security apparatus, here are the main questions that need to be answered:

Questions for Major General Bruce Lawlor

- 1) What happened in July 1995 to make you leave your law practice and go to the Army War College? Did the CIA have a role in that decision?
- 2) How did your education at the War College pave the way for your assignment as Special Assistant to the Supreme Allied Commander in Europe, from June to October 1996? CIA officers often go by the term "Special Assistant." Were you serving as the CIA's liaison to the Supreme Commander?
- 3) In May 1998 you got the very important job as Deputy Director of Readiness and Mobilization within the office of the Deputy Chief of Staff for Operations and Plans. Your job was managing the National Guard and Reserves around the world. Did the CIA help you get this job? How were you involved with the CIA in this position?
- 4) You were the first commander of the Joint Task Force, Civil Support at Fort Monroe. Your job was to work with civilians. Was this a CIA assignment? How were you involved with the CIA in this position? Was this assignment based in any way upon your Phoenix-related experiences as a CIA officer in Vietnam, and was it precisely that "Phoenix" sensibility that you brought, as your main qualification, to the job? What are your other qualifications? Who else bid for the job? Isn't this where General Wayne Downing was assigned after 11 September, and if so, what was and is your relationship with him, and the CIA, in terms of formulating Homeland Security policy?
- 5) In a 24 March 2000 statement to Congress, you seemed to be preparing for the Homeland Security job you have now. In a way you predicted the calamitous events of 11 September. Did you, in fact, have any foreknowledge of those attacks?
- 6) In your statement to Congress you said that as Commanding General of the JTF-CS, you created Civil Support Teams to assist in case of a weapon of mass destruction incident. Formerly known as Rapid Assessment and Initial Detection (RAID) teams, CSTs, you said, "are National Guard assets, and thus can function under state or federal authority. They are equipped with sophisticated communications systems that will enable local first responders to talk with neighboring jurisdictions or link up with federal centers of expertise. CSTs are also being equipped with state of the art detection equipment that will enable them to help local first responders quickly identify potential WMD agents." That's what you told Congress. Would you now please tell us what role the CIA plays in CST operations? It sounds like a great CIA cover outfit to me. Are they? Is there a Civil Support team near me? Will you allow me to observe how it functions?
- 7) In your role as Senior Director for Protection and Prevention at the Office of Homeland Security, what is your relationship with Northcom and the CIA? In fact, what is it that you do? Is it true that the Office of Homeland Security will be strategy-making part of the Homeland Security apparatus, and that the forthcoming Department of Homeland Security will be the tactical and operational part? What is the function of the Homeland Security Council, and what is your relationship with it? Can we have organization charts of these entities, including ones that show where the CIA is hiding its covert assets?
- 8) Last but not least, please explain the conspicuous absence of any reference to your CIA background in your official biographies. This seems to suggest that you are still CIA. Are you? And

tell us, please, if you and others like intend to use your power to seek revenge against your political opponents?

Lingering Doubts

From mid 1972 through 1973 Bruce Lawlor ran the same sort of anti-terror programs that are now in vogue. The CIA has already launched a worldwide Phoenix Program. Is that why he got the Homeland Security job? Is that why the CIA finally let him back inside the fold? Did he promise to allow the CIA to use his Homeland Security programs as a cover to repress political dissent in America? Will he become one of those corrupt officials he hated in Vietnam, and use his power to take revenge on his personal enemies? Is that what Homeland Security is really all about?

Like most Americans, those of us who oppose the Bush Regime's fascist policies are willing to participate in our own defense, if there is in fact a threat, and if in fact the CIA didn't manufacture the threat. We just want honest forthright leaders whose first responsibility is to defend the liberties we cherish, and not to subvert them under the aegis of Homeland Security.

Douglas Valentine is the author of *The Hotel Tacloban*, *The Phoenix Program*, and *TDY*, all of which are available through iUniverse.com. For information about Mr. Valentine and his books and articles, please visit his website at www.douglasvalentine.com

He can be reached at: redspruce@attbi.com

Douglas Valentine is the author of *The Strength of the Wolf: The Secret History of America's War on Drugs*, and *The Strength of the Pack: The Personalities, Politics, and Espionage Intrigues that Shaped the DEA*.



**ARCHITECTS
& ENGINEERS**
for 9/11 TRUTH

3,500+ ARCHITECTS & ENGINEERS CALL FOR NEW INVESTIGATION OF DESTRUCTION OF THE 3 WORLD TRADE CENTER SKYSCRAPERS ON 9/11/2001

The AE911Truth Petition

TO THE MEMBERS OF THE HOUSE OF REPRESENTATIVES AND OF THE SENATE OF THE UNITED STATES OF AMERICA

Please take notice that:

On Behalf of the People of the United States of America, the undersigned Architects & Engineers for 9/11 Truth and affiliates hereby petition for, and demand, a truly independent investigation with subpoena power in order to uncover the full truth surrounding the events of 9/11/01 – specifically the collapse of the World Trade Center Towers and Building 7. We believe there is sufficient doubt about the official story to justify re-opening the 9/11 investigation. The new investigation must include a full inquiry into the possible use of explosives that might have been the actual cause of the destruction of the World Trade Center Twin Towers and Building 7.

Sincerely,

The Undersigned

Architects (Degreed & Licensed – Active & Retired)

FAIA and AIA Architects

Patrick Ahearn

FAIA
M. Architecture
Syracuse University
Boston, MA US

Daniel Barnum, FAIA

B. Arch., Rice University
Houston, TX, US

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Michael Somin

FAIA
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Paul Adams

AIA
LEED AP
M. Architecture
Colorado Univ.
Denver, CO, US

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Item 5 A.



THE JOINT CHIEFS OF STAFF
WASHINGTON 25, D.C.

UNCLASSIFIED

13 March 1962

MEMORANDUM FOR THE SECRETARY OF DEFENSE

Subject: Justification for US Military Intervention
in Cuba (TS)

1. The Joint Chiefs of Staff have considered the attached Memorandum for the Chief of Operations, Cuba Project, which responds to a request of that office for brief but precise description of pretexts which would provide justification for US military intervention in Cuba.

2. The Joint Chiefs of Staff recommend that the proposed memorandum be forwarded as a preliminary submission suitable for planning purposes. It is assumed that there will be similar submissions from other agencies and that these inputs will be used as a basis for developing a time-phased plan. Individual projects can then be considered on a case-by-case basis.

3. Further, it is assumed that a single agency will be given the primary responsibility for developing military and para-military aspects of the basic plan. It is recommended that this responsibility for both overt and covert military operations be assigned the Joint Chiefs of Staff.

For the Joint Chiefs of Staff:

SYSTEMATICALLY REVIEWED
BY JCS ON 21 May 84
CLASSIFICATION CONTINUED

L. L. Lemnitzer
L. L. LEMNITZER
Chairman
Joint Chiefs of Staff

1 Enclosure

Memo for Chief of Operations, Cuba Project

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DOES NOT APPLY

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12 March 1962Page 2165

NOTE BY THE SECRETARIES

to the

JOINT CHIEFS OF STAFF

on

NORTHWOODS (S)

A report* on the above subject is submitted for consideration by the Joint Chiefs of Staff.

F. J. BLOVIN

M. J. INGELIDO

Joint Secretariat

* Not reproduced herewith; on file in Joint Secretariat

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JCS 1969/321

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JCS 1969/321

SECRETARY'S DEPARTMENT

14 March 1962

JOINT CHIEFS OF STAFF
 DECISION ON JCS 1969/321
 A Note by the Secretaries
 ON
 NORTHWOODS (S)
 Note by the Secretaries

1. At their meeting on 15 March 1962, the Joint Chiefs of Staff approved the recommendations in paragraph 8 of JCS 1969/321.
2. In that the Commandant had expressed direct concern of the Marine Corps in this matter, the provisions of Article 10, US Code 141 (6), applied and were followed.
3. This decision now becomes a part of and shall be attached as the top sheet of JCS 1969/321.

F. J. BROUDIN
 M. J. WINGFIELD
 JOINT SECRETARIES

SYSTEMATICALLY REVIEWED
 BY JCS ON 27 MAR 62
 CLASSIFICATION CONTINUED

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9 March 1962

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REPORT BY THE DEPARTMENT OF DEFENSE AND
JOINT CHIEFS OF STAFF REPRESENTATIVE ON THE
CARIBBEAN SURVEY GROUP

to the

JOINT CHIEFS OF STAFF

on

CUBA PROJECT(TS)

The Chief of Operations, Cuba Project, has requested that he be furnished the views of the Joint Chiefs of Staff on this matter by 13 March 1962.

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Item 5 A.

JUSTIFICATION FOR US MILITARY INTERVENTION IN CUBA (TS)

THE PROBLEM

1. As requested* by Chief of Operations, Cuba Project, the Joint Chiefs of Staff are to indicate brief but precise description of pretext which they consider would provide justification for US military intervention in Cuba.

FACTS BEARING ON THE PROBLEM

2. It is recognized that any action which becomes pretext for US military intervention in Cuba will lead to a political decision which then would lead to military action.

3. Cognizance has been taken of a suggested course of action proposed** by the US Navy relating to generated instances in the Guantanamo area.

4. For additional facts see Enclosure B.

DISCUSSION

5. The suggested course of action appended to Enclosure A are based on the premise that US military intervention will result from a period of heightened US-Cuban tensions which place the United States in the position of suffering justifiable grievances. World opinion, and the United Nations forum should be favorably affected by developing the international image of the Cuban government as rash and irresponsible, and as an alarming and unpredictable threat to the peace of the Western Hemisphere.

6. While the foregoing premise can be utilized at the present time it will continue to hold good only as long as there can be reasonable certainty that US military intervention in Cuba would not directly involve the Soviet Union. There is

* Memorandum for General Craig from Chief of Operations, Cuba Project, subject: "Operation MONGOOSE", dated 5 March 1962, on file in General Craig's office.

** Memorandum for the Chairman, Joint Chiefs of Staff, from Chief of Naval Operations, subject: "Instances to Provoke Military Actions in Cuba (TS)", dated 8 March 1962, on file in General Craig's office.

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as yet no bilateral mutual support agreement binding the USSR to the defense of Cuba, Cuba has not yet become a member of the Warsaw Pact, nor have the Soviets established Soviet bases in Cuba in the pattern of US bases in Western Europe. Therefore, since time appears to be an important factor in resolution of the Cuba problem, all projects are suggested within the time frame of the next few months.

CONCLUSION

7. The suggested courses of action appended to Enclosure A satisfactorily respond to the statement of the problem. However, these suggestions should be forwarded as a preliminary submission suitable for planning purposes, and together with similar inputs from other agencies, provide a basis for development of a single, integrated, time-phased plan to focus all efforts on the objective of justification for US military intervention in Cuba.

RECOMMENDATIONS

8. It is recommended that:

- a. Enclosure A together with its attachments should be forwarded to the Secretary of Defense for approval and transmittal to the Chief of Operations, Cuba Project.
- b. This paper NOT be forwarded to commanders of unified or specified commands.
- c. This paper NOT be forwarded to US officers assigned to NATO activities.
- d. This paper NOT be forwarded to the Chairman, US Delegation, United Nations Military Staff Committee.

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MEMORANDUM FOR THE SECRETARY OF DEFENSE

Subject: Justification for US Military Intervention
in Cuba (TS)

1. The Joint Chiefs of Staff have considered the attached Memorandum for the Chief of Operations, Cuba Project, which responds to a request* of that office for brief but precise description of pretexts which would provide justification for US military intervention in Cuba.

2. The Joint Chiefs of Staff recommend that the proposed memorandum be forwarded as a preliminary submission suitable for planning purposes. It is assumed that there will be similar submissions from other agencies and that these inputs will be used as a basis for developing a time-phased plan. Individual projects can then be considered on a case-by-case basis. D

3. Further, it is assumed that a single agency will be given the primary responsibility for developing military and para-military aspects of the basic plan. It is recommended that this responsibility for both overt and covert military operations be assigned the Joint Chiefs of Staff.

* Memorandum for Gen Craig from Chief of Operations, Cuba Project, subject, "Operation MONGOOSE", dated 5 March 1962, on file in Gen Craig's office

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APPENDIX TO ENCLOSURE A

DRAFT

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MEMORANDUM FOR CHIEF OF OPERATIONS, CUBA PROJECT

Subject: Justification for US Military Intervention
in Cuba (TS)

1. Reference is made to memorandum from Chief of Operations, Cuba Project, for General Craig, subject: "Operation MONGOOSE", dated 5 March 1962, which requested brief but precise description of pretexts which the Joint Chiefs of Staff consider would provide justification for US military intervention in Cuba.

2. The projects listed in the enclosure hereto are forwarded as a preliminary submission suitable for planning purposes. It is assumed that there will be similar submissions from other agencies and that these inputs will be used as a basis for developing a time-phased plan. The individual projects can then be considered on a case-by-case basis.

3. This plan, incorporating projects selected from the attached suggestions, or from other sources, should be developed to focus all efforts on a specific ultimate objective which would provide adequate justification for US military intervention. Such a plan would enable a logical build-up of incidents to be combined with other seemingly unrelated events to camouflage the ultimate objective and create the necessary impression of Cuban rashness and irresponsibility on a large scale, directed at other countries as well as the United States. The plan would also properly integrate and time phase the courses of action to be pursued. The desired resultant from the execution of this plan would be to place the United States in the apparent position of suffering defensible grievances from a rash and irresponsible government of Cuba and to develop an international image of a Cuban threat to peace in the Western Hemisphere.

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Appendix to
Enclosure A

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Item 5 A.

4. Time is an important factor in resolution of the Cuban problem. Therefore, the plan should be so time-phased that projects would be operable within the next few months.

5. Inasmuch as the ultimate objective is overt military intervention, it is recommended that primary responsibility for developing military and para-military aspects of the plan for both overt and covert military operations be assigned the Joint Chiefs of Staff.

6

Appendix to
Enclosure A

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ANNEX TO APPENDIX TO ENCLOSURE A
PRETEXTS TO JUSTIFY US MILITARY INTERVENTION IN CUBA~~UNCLASSIFIED~~

(Note: The courses of action which follow are a preliminary submission suitable only for planning purposes. They are arranged neither chronologically nor in ascending order. Together with similar inputs from other agencies, they are intended to provide a point of departure for the development of a single, integrated, time-phased plan. Such a plan would permit the evaluation of individual projects within the context of cumulative, correlated actions designed to lead inexorably to the objective of adequate justification for US military intervention in Cuba).

1. Since it would seem desirable to use legitimate provocation as the basis for US military intervention in Cuba a cover and deception plan, to include requisite preliminary actions such as has been developed in response to Task 33 c, could be executed as an initial effort to provoke Cuban reactions. Harassment plus deceptive actions to convince the Cubans of imminent invasion would be emphasized. Our military posture throughout execution of the plan will allow a rapid change from exercise to intervention if Cuban response justifies.

2. A series of well coordinated incidents will be planned to take place in and around Guantanamo to give genuine appearance of being done by hostile Cuban forces.

a. Incidents to establish a credible attack (not in chronological order):

- (1) Start rumors (many). Use clandestine radio.
- (2) Land friendly Cubans in uniform "over-the-fence" to stage attack on base.
- (3) Capture Cuban (friendly) saboteurs inside the base.
- (4) Start riots near the base main gate (friendly Cubans).

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- (5) Blow up ammunition inside the base; start fires.
 - (6) Burn aircraft on air base (sabotage).
 - (7) Lob mortar shells from outside of base into base.

Some damage to installations.

- (8) Capture assault teams approaching from the sea or vicinity of Guantanamo City.
- (9) Capture militia group which storms the base.
- (10) Sabotage ship in harbor; large fires -- naphthalene.
- (11) Sink ship near harbor entrance. Conduct funerals for mock-victims (may be lieu of (10)).

b. United States would respond by executing offensive operations to secure water and power supplies, destroying artillery and mortar emplacements which threaten the base.

c. Commence large scale United States military operations.

3. A "Remember the Maine" incident could be arranged in several forms:

a. We could blow up a US ship in Guantanamo Bay and blame Cuba.

b. We could blow up a drone (unmanned) vessel anywhere in the Cuban waters. We could arrange to cause such incident in the vicinity of Havana or Santiago as a spectacular result of Cuban attack from the air or sea, or both. The presence of Cuban planes or ships merely investigating the intent of the vessel could be fairly compelling evidence that the ship was taken under attack. The nearness to Havana or Santiago would add credibility especially to those people that might have heard the blast or have seen the fire. The US could follow up with an air/sea rescue operation covered by US fighters to "evacuate" remaining members of the non-existent crew. Casualty lists in US newspapers would cause a helpful wave of national indignation.

4. We could develop a Communist Cuban terror campaign in the Miami area, in other Florida cities and even in Washington.

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The terror campaign could be pointed at Cuban refugees seeking haven in the United States. We could sink a boatload of Cubans enroute to Florida (real or simulated). We could foster attempts on lives of Cuban refugees in the United States even to the extent of wounding in instances to be widely publicized. Exploding a few plastic bombs in carefully chosen spots, the arrest of Cuban agents and the release of prepared documents substantiating Cuban involvement also would be helpful in projecting the idea of an irresponsible government.

5. A "Cuban-based, Castro-supported" filibuster could be simulated against a neighboring Caribbean nation (in the vein of the 14th of June invasion of the Dominican Republic). We know that Castro is backing subversive efforts clandestinely against Haiti, Dominican Republic, Guatemala, and Nicaragua at present and possible others. These efforts can be magnified and additional ones contrived for exposure. For example, advantage can be taken of the sensitivity of the Dominican Air Force to intrusions within their national air space. "Cuban" B-26 or C-46 type aircraft could make cane-burning raids at night. Soviet Bloc incendiaries could be found. This could be coupled with "Cuban" messages to the Communist underground in the Dominican Republic and "Cuban" shipments of arms which would be found, or intercepted, on the beach.

6. Use of MIG type aircraft by US pilots could provide additional provocation. Harassment of civil air, attacks on surface shipping and destruction of US military drone aircraft by MIG type planes would be useful as complementary actions. An F-86 properly painted would convince air passengers that they saw a Cuban MIG, especially if the pilot of the transport were to announce such fact. The primary drawback to this suggestion appears to be the security risk inherent in obtaining or modifying an aircraft. However, reasonable copies of the MIG could be produced from US resources in about three months.

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7. Hijacking attempts against civil air and surface craft should appear to continue as harassing measures condoned by the government of Cuba. Concurrently, genuine defections of Cuban civil and military air and surface craft should be encouraged.

8. It is possible to create an incident which will demonstrate convincingly that a Cuban aircraft has attacked and shot down a chartered civil airliner enroute from the United States to Jamaica, Guatemala, Panama or Venezuela. The destination would be chosen only to cause the flight plan route to cross Cuba. The passengers could be a group of college students off on a holiday or any grouping of persons with a common interest to support chartering a non-scheduled flight.

a. An aircraft at Eglin AFB would be painted and numbered as an exact duplicate for a civil registered aircraft belonging to a CIA proprietary organization in the Miami area. At a designated time the duplicate would be substituted for the actual civil aircraft and would be loaded with the selected passengers, all boarded under carefully prepared aliases. The actual registered aircraft would be converted to a drone.

b. Take off times of the drone aircraft and the actual aircraft will be scheduled to allow a rendezvous south of Florida. From the rendezvous point the passenger-carrying aircraft will descend to minimum altitude and go directly into an auxiliary field at Eglin AFB where arrangements will have been made to evacuate the passengers and return the aircraft to its original status. The drone aircraft meanwhile will continue to fly the filed flight plan. When over Cuba the drone will be transmitting on the international distress frequency a "MAY DAY" message stating he is under attack by Cuban MIG aircraft. The transmission will be interrupted by destruction of the aircraft which will be triggered by radio signal. This will allow ICAO radio

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stations in the Western Hemisphere to tell the US what has happened to the aircraft instead of the US trying to "sell" the incident.

9. It is possible to create an incident which will make it appear that Communist Cuban MIGs have destroyed a USAF aircraft over international waters in an unprovoked attack.

a. Approximately 4 or 5 F-101 aircraft will be dispatched in trail from Homestead AFB, Florida, to the vicinity of Cuba. Their mission will be to reverse course and simulate fakir aircraft for an air defense exercise in southern Florida. These aircraft would conduct variations of these flights at frequent intervals. Crews would be briefed to remain at least 12 miles off the Cuban coast; however, they would be required to carry live ammunition in the event that hostile actions were taken by the Cuban MIGs.

b. On one such flight, a pre-briefed pilot would fly tail-end Charley at considerable interval between aircraft. While near the Cuban Island this pilot would broadcast that he had been jumped by MIGs and was going down. No other calls would be made. The pilot would then fly directly west at extremely low altitude and land at a secure base, an Eglin auxiliary. The aircraft would be met by the proper people, quickly stored and given a new tail number. The pilot who had performed the mission under an alias, would resume his proper identity and return to his normal place of business. The pilot and aircraft would then have disappeared.

c. At precisely the same time that the aircraft was presumably shot down a submarine or small surface craft would disburse F-101 parts, parachute, etc., at approximately 15 to 20 miles off the Cuban coast and depart. The pilots returning to Homestead would have a true story as far as they knew. Search ships and aircraft could be dispatched and parts of aircraft found.

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ENCLOSURE B

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FACTS BEARING ON THE PROBLEM

1. The Joint Chiefs of Staff have previously stated* that US unilateral military intervention in Cuba can be undertaken in the event that the Cuban regime commits hostile acts against US forces or property which would serve as an incident upon which to base overt intervention.

2. The need for positive action in the event that current covert efforts to foster an internal Cuban rebellion are unsuccessful was indicated** by the Joint Chiefs of Staff on 7 March 1962, as follows:

" - - - determination that a credible internal revolt is impossible of attainment during the next 9-10 months will require a decision by the United States to develop a Cuban "provocation" as justification for positive US military action."

3. It is understood that the Department of State also is preparing suggested courses of action to develop justification for US military intervention in Cuba.

* JCS 1969/303
** JCS 1969/313

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Honoring the crew of the USS *Liberty*

Donate



The crew of the USS *Liberty* is the most decorated crew since World War II. It is among the most decorated crews for a single engagement in the entire history of the United States Navy. Yet, the attack has never received a full investigation, as required by law.



Basic Facts about USS *Liberty*

34 Killed in Action

174 Wounded in Action

Congressional Medal of Honor

2 Navy Crosses

38 Silver/Bronze Stars

208 Purple Hearts

TELL CONGRESS AND MEDIA COVER USS *LIBERTY*

ACTION ALERT: Contact your local media outlets (to include college newspapers), student veterans organizations and elected represent and ask that they interview survivor the attack. **Veterans' contact info**

Sign a Statement
and a Petition

FOLLOW US ON FACEBOOK

Honor Liberty Vets

OUR BILLBOARD IN THE NEWS

Fourteen Pennsylvania state legislators demanded we remove our billboards honoring USS *Liberty* veterans from highways. Read their letter, our defense response, and see local TV coverage the controversy. **Click here**

AMERICAN LEGION BETRAY LIBERTY VETERANS

The American Legion is the nation's largest wartime veterans' assistance organization, officially committed to "devotion to our fellow servicemen and veterans." Yet, Legion managers have torpedoed resolutions supporting the *Liberty*, refused to allow

Commonly Asked Questions about the USS *Liberty*

Prepared by the **Independent Commission of Inquiry**,
chaired by Admiral Thomas H. Moorer, former Chairman, Joint Chiefs of Staff

1. What happened to the USS *Liberty*?

The USS *Liberty* was a virtually unarmed American navy ship that was attacked by Israeli planes and torpedo boats on June 8, 1967.

2. What were the American casualties?

34 American sailors were killed and 172 injured that day, a casualty rate of 70%. This is among the highest casualty rates ever inflicted upon a U.S. naval vessel.

3. What was Israel's explanation for the attack?

Israel claimed the attack was "a case of mistaken identity"; that they didn't know it was an American ship.

4. Why would we question that explanation more than 30 years later?

The ship's survivors were afraid to speak out in the early years because of threats of "court martial, prison or worse" if they did not remain silent. However, as time passed, they have stepped forward to say the attack was deliberate.

Recently, high government and military officials have suggested that not only was the attack deliberate, but that the US government covered-up the incident. Today, an Independent Commission of Inquiry has found that Israel committed “an act of war” against the United States (see Findings of Independent Commission).

In addition, the Navy’s chief attorney to the original 1967 military Court of Inquiry has issued a statement that orders to cover-up the incident were issued by President Lyndon Johnson and Secretary of Defense Robert McNamara [see Statement of Captain Ward Boston, USN, JAG (Ret.)].

5. Did Israel have reason to believe the USS *Liberty* was an Egyptian ship?

Israel says its pilots and torpedo boat commanders confused the USS *Liberty* with the El Quseir, an Egyptian ship allegedly firing upon its forces in the Sinai. But there was no Egyptian naval bombardment that day; nor did the El Quseir (an unarmed 1920s-era horse carrier out of service in Alexandria) bear any resemblance to the *Liberty*.

6. Isn’t it difficult to identify a ship if you’re in an airplane?

In 1967, the USS *Liberty* was the most sophisticated intelligence ship in the world, with dozens of large antennas, including a large moon-bounce “satellite-dish” mounted on a tall structure near the stern. It may have been one of the most easily identifiable ships of any navy in the world. With a displacement of 10,000 tons, it was four times the size of the antique Egyptian transport it is claimed to have resembled. Freshly painted, the *Liberty* carried large white identification numbers on its bow. Egyptian hull numbers are painted black.

the *Liberty* Veterans Ass
2013 national conventio
publish a paid ad in support of the
Liberty crew, and treated survivors
family members with arrogance and
disdain. **Read more**

Item 5 A.



This is one of the three American flags shot down by Israeli forces during the attack on the USS Liberty.

7. Doesn't Israel say that the *Liberty* flew no flag?

According to American survivors, a 5-by-8 feet American flag was hoisted early that morning and was flying all day until it was shot away by attacking aircraft. Within several minutes, it was replaced by the giant 7-by-13 feet holiday ensign, which flew for the duration of the attack.

8. Could Israel have thought the ship was in a war zone, acting suspiciously?

According to surviving crewmembers, Israeli reconnaissance aircraft closely studied the *Liberty* over an eight-hour period prior to the attack, one flying within two hundred feet of the ship. At all times the *Liberty* was a clearly marked American ship in international waters, proceeding at a speed of only 5 knots.

9. What was the weather like the day of the attack?

Weather reports confirm that it was a clear day with unlimited visibility. The Israeli reconnaissance planes could have seen the *Liberty's* crew sunbathing on the upper decks just before the attack. The flag was flying in a 12-knot breeze for most of the afternoon.

10. Doesn't Israel say they ended the attack the minute they saw someone hoist an American flag?

The Israeli attack by combined air and naval forces spanned two hours — as long as the attack on Pearl Harbor. The air attack alone lasted approximately 25 minutes: consisting of more than 30 sorties by approximately 12 separate planes using napalm, cannon, and rockets which left 821 holes in the ship. Following the air attack, three Israeli motor torpedo boats torpedoed the ship, causing a 40'x 40' wide hole in her hull, and machine-gunning firefighters and stretcher-bearers attempting to save their ship and crew. More than 3,000 machine-gun bullet holes were later counted on the *Liberty's* hull. After the attack was thought to have ended, three life rafts were lowered into the water to rescue the most seriously wounded. The Israeli torpedo boats returned and machine-gunned these life rafts at close range. This was followed by the approach of two large Israeli Army assault helicopters filled with armed commandos carrying what appeared to be explosive satchels (they departed after hovering over the ship for several minutes, making no attempt to communicate).

11. Did the *Liberty* send out a distress signal when it was under attack?

Throughout the air attack, the *Liberty's* radio operators found it difficult to transmit a distress signal because the attacking Israeli aircraft jammed all five of the *Liberty's* American, not Egyptian, emergency radio channels. However, a call for help did reach the U.S. Navy command in the Mediterranean.

12. What was the American response time?

Although American carrier-based air support was only 40 minutes away, help did not reach the USS *Liberty* for seventeen hours. Navy fighters were launched from the aircraft carriers *America* and *Saratoga* while the *Liberty* was under attack. However, they were quickly recalled by the White House. This is the only instance in American naval history where a rescue mission was cancelled when an American ship was under attack.

13. Why would Israel have deliberately attacked an American ship?

Israel's motive for launching the attack has never been determined with certainty. This is why an impartial investigation is critical. One hypothesis is that Israel intended to sink the ship (with no survivors) and blame Egypt because this might have brought the United States into the 1967 war. Another hypothesis is that the *Liberty* was gathering intelligence about activities that Israel did not want revealed. Examples might include the

massacre of Egyptian prisoners of war that was then occurring in the Sinai, as well as Israel's impending invasion of Syria.

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14. Has the incident been investigated in the past?

Some people say that there have been "thirteen official investigations" all concluding the attack was a case of mistaken identity. Several were conducted by Israel. Upon examination, however, every one is based upon the conclusions of the original 1967 US Navy Court of Inquiry, which accepted the Israeli version, but which has been exposed and discredited by its chief attorney as a cover-up.

15. Did the surviving crewmembers testify in the other investigations?

In not one of these "investigations" were any of the *Liberty's* surviving crewmembers permitted to publicly testify.

16. Why would the White House prevent the rescue of an American ship?

This is, perhaps, the most disturbing question arising out of Israel's attack. It is why there needs to be a thorough investigation of the actions taken by the White House and the Secretary of Defense. Why did they order the recall of the planes that had been sent to rescue the *Liberty*? Why did they order that the survivors be silenced and the true facts be withheld from the American people?

17. What kind of investigation are you calling for?

We are calling for a new Court of Inquiry by the Department of the Navy, with congressional oversight, to take public testimony from surviving crewmembers and otherwise thoroughly examine the circumstances of the attack.

18. Why are you calling for a naval — and not a congressional — investigation?

We believe this would remove the inquiry from the political pressures traditionally exerted by special interest groups upon individual congressional offices. Fundraising and election pressures have prevented an honest investigation from being conducted for the past 36 years.

19. Why is this significant for the American people 36 years later?

We have a duty to the crew of the USS *Liberty*, while the survivors are still alive to testify, and while the perpetrators can be brought to justice. Furthermore, any policies that paralyze our elected leadership to the extent they become unable or unwilling to protect Americans and American interests, endangers not only the safety of all Americans but also the national security of the United States.

20. Doesn't America have a special relationship with Israel?

No nation or people should be above the law; nor should American interests be subordinated to the interests of any foreign nation. Those Israelis responsible for ordering the attack and the resulting murder of American sailors must be held accountable for their actions.

NEOCONSERVATIVES

"A New Pearl Harbor"

Two years ago a project set up by the men who now surround George W Bush said what America needed was "a new Pearl Harbor." Its published aims have, alarmingly, come true.

By John Pilger
New Statesman
December 16, 2002

The threat posed by US terrorism to the security of nations and individuals was outlined in prophetic detail in a document written more than two years ago and disclosed only recently. What was needed for America to dominate much of humanity and the world's resources, it said, was "some catastrophic and catalysing event – like a new Pearl Harbor". The attacks of 11 September 2001 provided the "new Pearl Harbor", described as "the opportunity of ages". The extremists who have since exploited 11 September come from the era of Ronald Reagan, when far-right groups and "think-tanks" were established to avenge the American "defeat" in Vietnam. In the 1990s, there was an added agenda: to justify the denial of a "peace dividend" following the cold war. The Project for the New American Century was formed, along with the American Enterprise Institute, the Hudson Institute and others that have since merged the ambitions of the Reagan administration with those of the current Bush regime.

One of George W Bush's "thinkers" is Richard Perle. I interviewed Perle when he was advising Reagan; and when he spoke about "total war", I mistakenly dismissed him as mad. He recently used the term again in describing America's "war on terror". "No stages," he said. "This is total war. We are fighting a variety of enemies. There are lots of them out there. All this talk about first we are going to do Afghanistan, then we will do Iraq... this is entirely the wrong way to go about it. If we just let our vision of the world go forth, and we embrace it entirely and we don't try to piece together clever diplomacy, but just wage a total war... our children will sing great songs about us years from now."

Perle is one of the founders of the Project for the New American Century, the PNAC. Other founders include Dick Cheney, now vice-president, Donald Rumsfeld, defence secretary, Paul Wolfowitz, deputy defence secretary, I Lewis Libby, Cheney's chief of staff, William J Bennett, Reagan's education secretary, and Zalmay Khalilzad, Bush's ambassador to Afghanistan. These are the modern chartists of American terrorism. The PNAC's seminal report, *Rebuilding America's Defences: strategy, forces and resources for a new century*, was a blueprint of American aims in all but name. Two years ago it recommended an increase in arms-spending by \$48bn so that Washington could "fight and win multiple, simultaneous major theatre wars". This has happened. It said the United States should develop "bunker-buster" nuclear weapons and make "star wars" a national priority. This is happening. It said that, in the event of Bush taking power, Iraq should be a target. And so it is.

As for Iraq's alleged "weapons of mass destruction", these were dismissed, in so many words, as a convenient excuse, which it is. "While the unresolved conflict with Iraq provides the immediate justification," it says, "the

for a substantial American force presence in the Gulf transcends the issue of the regime of Saddam Huss Item 5 A.
has this grand strategy been implemented? A series of articles in the Washington Post, co-authored by Bob Woodward of Watergate fame and based on long interviews with senior members of the Bush administration, reveals how 11 September was manipulated.

On the morning of 12 September 2001, without any evidence of who the hijackers were, Rumsfeld demanded that the US attack Iraq. According to Woodward, Rumsfeld told a cabinet meeting that Iraq should be "a principal target of the first round in the war against terrorism". Iraq was temporarily spared only because Colin Powell, the secretary of state, persuaded Bush that "public opinion has to be prepared before a move against Iraq is possible". Afghanistan was chosen as the softer option. If Jonathan Steele's estimate in the Guardian is correct, some 20,000 people in Afghanistan paid the price of this debate with their lives.

Time and again, 11 September is described as an "opportunity". In last April's New Yorker, the investigative reporter Nicholas Lemann wrote that Bush's most senior adviser, Condoleezza Rice, told him she had called together senior members of the National Security Council and asked them "to think about 'how do you capitalise on these opportunities'", which she compared with those of "1945 to 1947": the start of the cold war. Since 11 September, America has established bases at the gateways to all the major sources of fossil fuels, especially central Asia. The Unocal oil company is to build a pipeline across Afghanistan. Bush has scrapped the Kyoto Protocol on greenhouse gas emissions, the war crimes provisions of the International Criminal Court and the anti-ballistic missile treaty. He has said he will use nuclear weapons against non-nuclear states "if necessary". Under cover of propaganda about Iraq's alleged weapons of mass destruction, the Bush regime is developing new weapons of mass destruction that undermine international treaties on biological and chemical warfare.

In the Los Angeles Times, the military analyst William Arkin describes a secret army set up by Donald Rumsfeld, similar to those run by Richard Nixon and Henry Kissinger and which Congress outlawed. This "super-intelligence support activity" will bring together the "CIA and military covert action, information warfare, and deception". According to a classified document prepared for Rumsfeld, the new organisation, known by its Orwellian moniker as the Proactive Pre-emptive Operations Group, or P2OG, will provoke terrorist attacks which would then require "counter-attack" by the United States on countries "harbouring the terrorists".

In other words, innocent people will be killed by the United States. This is reminiscent of Operation Northwoods, the plan put to President Kennedy by his military chiefs for a phoney terrorist campaign - complete with bombings, hijackings, plane crashes and dead Americans - as justification for an invasion of Cuba. Kennedy rejected it. He was assassinated a few months later. Now Rumsfeld has resurrected Northwoods, but with resources undreamt of in 1963 and with no global rival to invite caution. You have to keep reminding yourself this is not fantasy: that truly dangerous men, such as Perle and Rumsfeld and Cheney, have power. The thread running through their ruminations is the importance of the media: "the prioritised task of bringing on board journalists of repute to accept our position".

"Our position" is code for lying. Certainly, as a journalist, I have never known official lying to be more pervasive than today. We may laugh at the vacuities in Tony Blair's "Iraq dossier" and Jack Straw's inept lie that Iraq has developed a nuclear bomb (which his minions rushed to "explain"). But the more insidious lies, justifying an unprovoked attack on Iraq and linking it to would-be terrorists who are said to lurk in every Tube station, are routinely channelled as news. They are not news; they are black propaganda.

This corruption makes journalists and broadcasters mere ventriloquists' dummies. An attack on a nation of 22 million suffering people is discussed by liberal commentators as if it were a subject at an academic seminar, at which pieces can be pushed around a map, as the old imperialists used to do.

The issue for these humanitarians is not primarily the brutality of modern imperial domination, but how "b
Saddam Hussein is. There is no admission that their decision to join the war party further seals the fate of perhaps
thousands of innocent Iraqis condemned to wait on America's international death row. Their doublethink will not
work. You cannot support murderous piracy in the name of humanitarianism. Moreover, the extremes of American
fundamentalism that we now face have been staring at us for too long for those of good heart and sense not to
recognise them.

Item 5 A.

With thanks to Norm Dixon and Chris Floyd

- [The Assassination of JFK >](#)
- [Spies and Spymasters >](#)
- Edward Lansdale

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Edward Lansdale



Edward Lansdale was born in [Detroit, Michigan](#), on 6th February, 1908. During the [Second World War](#) Lansdale was a member of the [Office of Strategic Services](#) (OSS), an organization that was given the responsible for espionage and for helping the [resistance movement](#) in Europe.

According to [Sterling Seagrave](#), Lansdale was sent by General [Charles Willoughby](#) to the [Philippines](#) after the war. Lansdale "joined the torture sessions of Major Kojima Kashii "as an observer and participant". As Seagrave explains: "Since Yamashita had arrived from Manchuria in October 1944 to take over the defense of the Philippines, Kojima had driven him everywhere."

In charge of Kojima's torture was an intelligence officer named Severino Garcia Diaz Santa Romana (Santy). He wanted Major Kojima to reveal each place to which he had taken General [Tomoyuki Yamashita](#), where bullion and other treasure were hidden." [Ray Cline](#) argues that between 1945 and 1947 the gold bullion recovered by Santy and Lansdale was moved by ship to 176 accounts at banks in 42 countries. [Robert Anderson](#) and CIA agent [Paul Helliwell](#) set up these black gold accounts "providing money for political action funds throughout the noncommunist world."

Promoted to the rank of major Lansdale was appointed Chief of the Intelligence Division in the [Philippines](#). His main task was to rebuild the country's security services.

On his return to the [United States](#) in 1948 Lansdale became a lecturer at the Strategic Intelligence School in Colorado. However, in 1950, [Elpidio Quirino](#), the president of the [Philippines](#), requested Lansdale's help in his fight against the communist insurrection taking place in his country.

In the early 1950s, [Allen Dulles](#) gave Lansdale \$5-million to finance CIA operations against the [Hukbalahap](#) movement, the rural peasant farmers fighting for land-reform in the [Philippines](#).

According to [Sterling Seagrave](#) Lansdale "was in and out of Tokyo on secret missions with a hand-picked team of Filipino assassins, assassinating leftists, liberals and progressives." CIA Director [William Colby](#) later commented: "Lansdale helped and perhaps created the best president

the Philippines ever had...turned American policy away from support of French colonial rule in Vietnam to support of a non-Communist nationalist leader...he preached for Americans to support those willing to fight for themselves... He was one of the greatest spies in history... the stuff of legends."

In 1953 Lansdale was sent to Vietnam to advise the French in their struggle with the Vietminh. Dulles told President Dwight Eisenhower that he was sending one of his "best men". The following year Lansdale and a team of twelve intelligence agents were sent to Saigon. The plan was to mount a propaganda campaign to persuade the Vietnamese people in the south not to vote for the communists in the forthcoming elections.

In the months that followed they distributed targeted documents that claimed the Vietminh and Chinese communists had entered South Vietnam and were killing innocent civilians. The Ho Chi Minh government was also accused of slaying thousands of political opponents in North Vietnam.

Colonel Lansdale also recruited mercenaries from the Philippines to carry out acts of sabotage in North Vietnam. This was unsuccessful and most of the mercenaries were arrested and put on trial in Hanoi. Finally, Lansdale set about training the South Vietnamese army (ARVN) in modern fighting methods. For it was coming clear that it was only a matter of time before the communists would resort to open warfare.

In 1955 Graham Greene published *The Quiet American*. The novel is set in Vietnam and involves the relationship between Thomas Fowler and Alden Pyle. Fowler is a veteran British journalist in his fifties, who has been covering the war in Vietnam for over two years. Pyle, the "Quiet American" of the title, is officially an aid worker, but is really employed by the CIA. It is believed that the Pyle character is partly based on that of Edward Lansdale.

Greene had worked for the British Secret Service during the Second World War. Although a fairly successful novelist at the time, Greene was also employed by *The Times* and *Le Figaro* as a journalist. Between 1951 to 1954 spent a long period of time in Saigon. In 1953 Lansdale became a CIA advisor on special counter-guerrilla operations to French forces against the Viet Minh.

While it is true that Graham Greene admitted that he never had the "misfortune to meet" Lansdale, the two men did know a lot about each other. Lansdale recalls that in 1954 he had dinner with Peg and Tilman Durdin at the Continental Hotel in Saigon. Greene was also there having a meal with several French officers. Lansdale claims that after he and the Durdins were leaving, Greene said something in French to his companions and the men began booing him.

Lansdale definitely thought that Pyle was based on him. He told Cecil B. Currey on 15th February, 1984: "Pyle was close to Trinh Minh Thé, the guerrilla leader, and also had a dog that went with him everywhere - and I was the only American close to Trinh Minh Thé and my poodle Pierre went everything with me."

In the book Pyle is sent to Vietnam by his government, ostensibly as a member of the American Economic Mission, but that assignment was only a cover for his real role as a CIA agent. According to one critic "Pyle was the embodiment of well-meaning American-style politics, and he blundered through the intrigue, treachery, and confusion of Vietnamese politics, leaving a trail of blood and suffering behind him." As Fowler points out in the novel, Pyle was attempting to "win the East for Democracy". However, according to Fowler, what the people of Vietnam really wanted was "enough rice" to eat. What is more: "They don't want to be shot at. They want one day to be much the same as another. They don't want our white skins around telling them what they want."

When the book was published in the United States in 1956 it was condemned as anti-American. Pyle (Lansdale) is portrayed as someone whose belief in the justice of American foreign policy allows him to ignore the appalling consequences of his actions. It was criticized by *The New Yorker* for portraying Americans as murderers.

The director, producer and screenwriter, Joseph L. Mankiewicz was chosen to make the film of *The Quiet American*. He visited Saigon in 1956 and was introduced to Edward Lansdale, whose cover was working at the International Rescue Committee's office. The most controversial scene in the book is the bombing of a Saigon square in 1952 by a Vietnamese associate of Lansdale's, General Trinh Minh Thé. In the novel, Greene suggests that Pyle/Lansdale, was behind the bombing. Lansdale suggested to Mankiewicz that the film should show that the bombing was "actually having been a Communist action".

When he returned home Mankiewicz wrote to John O'Daniel, the chairman of the American Friends of Vietnam that he intended to completely change the anti-American attitude of Greene's book. This included the casting of Second World War hero, Audie Murphy, as Alden Pyle.

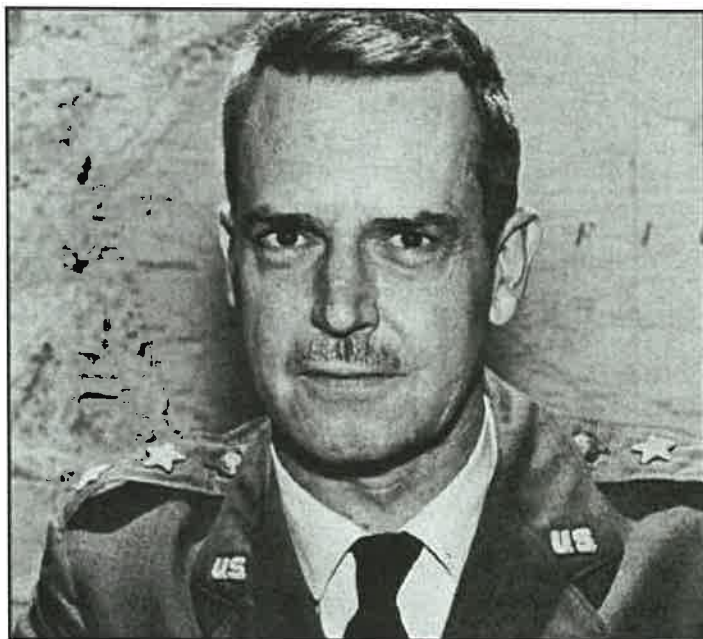
In a letter that Edward Lansdale wrote to Ngo Dinh Diem he praised Mankiewicz's treatment of the story as "an excellent change from Mr. Greene's novel of despair" and "that it will help win more friends for you and Vietnam in many places in the world where it is shown."

As Hugh Wilford pointed out: "It was a brilliantly devious maneuver of postmodern literary complexity: by helping to rewrite a story featuring a character reputedly based on himself, Lansdale had transformed an anti-American tract into a cinematic apology for U.S. policy - and his own actions-in Vietnam."

Graham Greene was furious with Mankiewicz's treatment of his novel. "Far was it from my mind, when I wrote *The Quiet American* that the book would become a source of spiritual profit to one of the most corrupt governments in Southeast Asia."

In October, 1955, the South Vietnamese people were asked to choose between Bo Dai, the former Emperor of Vietnam, and Ngo Dinh Diem for the leadership of the country. Lansdale suggested that Diem should provide two ballot papers, red for Diem and green for Bao Dai. Lansdale hoped that the Vietnamese belief that red signified good luck whilst green indicated bad fortune, would help influence the result.

When the voters arrived at the polling stations they found Diem's supporters in attendance. One voter complained afterwards: "They told us to put the red ballot into envelopes and to throw the green ones into the wastebasket. A few people, faithful to Bao Dai, disobeyed. As soon as they left, the agents went after them, and roughed them up... They beat one of my relatives to pulp."



Edward Lansdale (1963)

After the election Ngo Dinh Diem informed his American advisers that he had achieved 98.2 per cent of the vote. Lansdale warned him that these figures would not be believed and suggested that he published a figure of around 70 per cent. Diem refused and as the Americans predicted, the election undermined his authority.

Another task of Lansdale and his team was to promote the success of the rule of President Ngo Dinh Diem. Figures were produced that indicated that South Vietnam was undergoing an economic miracle. With the employment of \$250 millions of aid per year from the United States and the clever manipulating of statistics, it was reported that economic production had increased dramatically.

Lansdale left Vietnam in 1957 and officially went to work for the Secretary of Defence in Washington. However, he was also employed as a senior officer in the Central Intelligence Agency. Posts held included: Deputy Assistant Secretary for Special Operations (1957-59), Staff Member of the President's Committee on Military Assistance (1959-61).

In March 1960, President Dwight Eisenhower of the United States approved a CIA plan to overthrow Fidel Castro. The plan involved a budget of \$13 million to train "a paramilitary force outside Cuba for guerrilla action."

When President John F. Kennedy took office, Lansdale was appointed as Assistant Secretary of Defence for Special Operations. He argued that the CIA should work closely with exiles in Cuba, particularly those with middle-class professions, who had opposed Fulgencio Batista and had then become disillusioned with Fidel Castro because of his betrayal of the democratic process. Lansdale was also opposed to the Bay of Pigs operation because he knew that it would not trigger a popular uprising against Castro. Kennedy respected the advice of Lansdale and selected him to become project leader of Operation Mongoose.

Over 400 CIA officers were employed full-time on this project. Sidney Gottlieb of the CIA Technical Services Division was asked to come up with proposals that would undermine Castro's popularity with the Cuban people. Plans included a scheme to spray a television studio in which he was about

to appear with an hallucinogenic drug and contaminating his shoes with thallium which they believed would cause the hair in his beard to fall out.

These schemes were rejected and instead Richard Bissell decided to arrange the assassination of Fidel Castro. In September 1960, Bissell and Allen W. Dulles, the director of the Central Intelligence Agency (CIA), initiated talks with two leading figures of the Mafia, Johnny Roselli and Sam Giancana. Later, other crime bosses such as Carlos Marcello, Santos Trafficante and Meyer Lansky became involved in this plot against Castro.

Robert Maheu, a veteran of CIA counter-espionage activities, was instructed to offer the Mafia \$150,000 to kill Fidel Castro. The advantage of employing the Mafia for this work is that it provided CIA with a credible cover story. The Mafia were known to be angry with Castro for closing down their profitable brothels and casinos in Cuba. If the assassins were killed or captured the media would accept that the Mafia were working on their own.

The Federal Bureau of Investigation had to be brought into this plan as part of the deal involved protection against investigations against the Mafia in the United States. Castro was later to complain that there were twenty CIA-sponsored attempts on his life. Eventually Johnny Roselli and his friends became convinced that the Cuban revolution could not be reversed by simply removing its leader. However, they continued to play along with this CIA plot in order to prevent them being prosecuted for criminal offences committed in the United States.

Lansdale later claimed that John F. Kennedy asked him to draft a contingency plan to overthrow Fidel Castro. But he added that the idea had not been viable because it depended on recruiting Cuban exiles to generate an uprising in Cuba, something that he said was impossible.

In 1963 Kennedy asked Lansdale to concentrate on the situation in Vietnam. However, it was not long before Lansdale was in conflict with General Maxwell Taylor, who was the military representative to the president. Taylor took the view that the war could be won by military power. He argued in the summer of 1963 that 40,000 US troops could clean up the Vietminh threat in Vietnam and another 120,000 would be sufficient to cope with any possible North Vietnamese or Chinese intervention.

Lansdale disagreed with this viewpoint. He had spent years studying the way Mao Zedong had taken power in China. He often quoted Mao of telling his guerrillas: "Buy and sell fairly. Return everything borrowed. Indemnify everything damaged. Do not bathe in view of women. Do not rob personal belongings of captives." The purpose of such rules, according to Mao, was to create a good relationship between the army and its people. This was a strategy that had been adopted by the National Liberation Front. Lansdale believed that the US Army should adopt a similar approach. As Cecil B. Currey, the author of Edward Lansdale: The Unquiet American pointed out: "Lansdale was a dedicated anticommunist, conservative in his thoughts. Many people of like persuasion were neither as willing to study their enemy nor as open to adopting communist ideas to use a countervailing force. If for no other reason, the fact makes Lansdale stand out in bold relief to the majority of fellow military men who struggled on behalf of America in those intense years of the cold war."

Lansdale also argued against the overthrow of Ngo Dinh Diem. He told Robert McNamara that: "There's a constitution in place... Please don't destroy that when you're trying to change the government. Remember there's a vice president (Nguyen Ngoc Tho) who's been elected and is now holding office. If anything happens to the president, he should replace him. Try to keep something sustained."

It was these views that got him removed from office. The pressure to remove Lansdale came from General Curtis LeMay and General Victor Krulak and other senior members of the military. As a result it was decided to abolish his post as assistant to the secretary of defense. He was awarded the Distinguished Service Medal for counter-insurgency work and became consultant to the Food for Peace program.

Lansdale continued to argue against Lyndon Johnson's decision to try and use military power to win the Vietnam War. When General William Westmoreland argued that: "We're going to out-guerrilla the guerrilla and out-ambush the ambush... because we're smarter, we have greater mobility and fire-power, we have more endurance and more to fight for... And we've got more guts." Lansdale replied: "All actions in the war should be devised to attract and then make firm the allegiance of the people." He added "we label our fight as helping the Vietnamese maintain their freedom" but when "we bomb their villages, with horrendous collateral damage in terms of both civilian property and lives... it might well provoke a man of good will to ask, just what freedom of what Vietnamese are we helping to maintain?"

Lansdale quoted Robert Taber (*The War of the Flea*): "There is only one means of defeating an insurgent people who will not surrender, and that is extermination. There is only one way to control a territory that harbors resistance, and that is to turn it into a desert. Where these means cannot, for whatever reason, be used, the war is lost." Lansdale thought this was the situation in Vietnam and wrote to a friend that if the solution was to "kill every last person in the enemy ranks" then he was "not only morally opposed" to this strategy but knew it was "humanly impossible".

Lansdale added "No idea can be bombed or beaten to death. Military action alone is never enough." He pointed out that since 1945 the Vietminh had been willing to fight against the strength of both France and the United States in order to ensure success of their own. "Without a better idea, rebels will eventually win, for ideas are defeated only by better ideas."

Lansdale was anti-communist because he really believed in democracy. Lansdale had been arguing since 1956 that the best way of dealing with the National Liberation Front was to introduce free elections that included the rights of Chams, Khmers, Montagnards and other minorities to participate in voting. Lansdale said that he went into Vietnam as Tom Paine would have done. He was fond of quoting Paine as saying: "Where liberty dwells not, there is my country."

He also distanced himself from the Freedom Studies Center of the Institute for American Strategy when he discovered it was being run by the John Birch Society. He told a friend: "I refused to have anything more to do with it... That isn't what our country is all about." Lansdale considered himself a "conservative moderate" who was tolerant of all minorities.

Lansdale continued to advocate a non-military solution to Vietnam and in 1965, under orders from President Lyndon B. Johnson, the new US ambassador in Saigon, Henry Cabot Lodge, put Lansdale in charge of the "pacification program" in the country. As *Newsweek* reported: "Lansdale is expected to push hard for a greater effort on the political and economic fronts of the war, while opposing the recent trend bombing and the burning of villages."

One of those who served under him in this job was Daniel Ellsberg. He liked Lansdale because of his commitment to democracy. Ellsberg also agreed with Lansdale that the pacification program should be run by the Vietnamese. He argued that unless it was a Vietnam project it would never work. Lansdale knew that there was a deep xenophobia among Vietnamese. However, as he pointed out, he believed "Lyndon Johnson would have been just as xenophobic if Canadians or British or the French moved in force into the United States and took charge of his dreams for a great

Society, told him what to do, and spread out by thousands throughout the nation to see that it got done."

In February 1966 Lansdale was removed from his position in control of the pacification program. However, instead of giving the job to a Vietnamese, William Porter, was given the post. Lansdale was now appointed as a senior liaison officer, with no specific responsibilities.

Unlike most Americans in Vietnam, Lansdale believed it was essential for Vietnamese leaders to claim credit for any changes and reforms. His attitude aroused antagonism in the hearts of many within the U.S. bureaucracy who didn't like the idea of allowing others to receive credit for successful programs – although they did not object to blaming Vietnamese leaders for projects that failed.

Most importantly, Lansdale thought that the military should be careful to avoid causing civilian casualties. As his biographer, Cecil B. Currey pointed out: "Lansdale was primarily concerned about the welfare of people. Such a stance made him anathema to those more concerned about search and destroy missions, agent orange, free fire zones, harassing and interdicting fires, and body counts."

According to Lansdale "we lost the war at the Tet offensive". The reason for this was that after this defeat American commanders lost the ability to discriminate between friend and foe. All Vietnamese were now "gooks". Lansdale complained that commanders resorted more and more on artillery barrages that killed thousands of civilians. He told a friend that: "I don't believe this is a government that can win the hearts and minds of the people." Lansdale resigned and returned to the United States in June 1968.

Lansdale retired in 1968 and his book, *The Midst of Wars*, was published in 1972. Lansdale argued that the United States could still retain control of third-world nations by exporting "the American way" through a blend of economic aid and efforts at "winning the hearts and the minds of the people."

Edward Lansdale died in McLean, Virginia, on 23rd February, 1987.

By John Simkin (john@spartacus-educational.com) © September 1997 (updated February 2022).



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Primary and Secondary Sources

(1) Cecil B. Currey, *Edward Lansdale: The Unquiet America* (1988)

Lansdale was a dedicated anticommunist, conservative in his thoughts. Many people of like persuasion were neither as willing to study their enemy nor as open to adopting communist ideas to use a countervailing force. If for no other reason, the fact makes Lansdale stand out in bold relief to the majority of fellow military men who struggled on behalf of America in those intense years of the cold war.

(2) Edward Lansdale, interview with Cecil B. Currey (15th February, 1984)

Graham Greene once told someone that he definitely did not have me in mind when he created the character Alden Pyle. I sure hope not... On the other hand Pyle was close to Trinh Minh Thé, the guerrilla leader, and also had a dog that went with him everywhere - and I was the only American close to Trinh Minh Thé and my poodle Pierre went everything with me."

(3) L. Fletcher Prouty, letter to Jim Garrison (6th March, 1990)

It is amazing how things work, I am at home recuperating from a major back operation (to regain my ability to walk); so I was tossing around in bed last night...not too comfortable...and I began to think of Garrison. I thought, "I have got to write Jim a letter detailing how I believe the whole job was done."

By another coincidence I had received a fine set of twenty photos from the Sprague collection in Springfield, Mass. As the odds would have it, he is now living just around the corner here in Alexandria. Why not? Lansdale lived here, Fensterwald lives here, Ford used to live here. Quite a community.

I was studying those photos. One of them is the "Tramps" picture that appears in your book. It is glossy and clear. Lansdale is so clearly identifiable. Why, Lansdale in Dallas? The others don't matter, they are nothing but actors and not gunmen but they are interesting. Others who knew Lansdale as well as I did, have said the same thing, "That's him and what's he doing there?"

As I was reading the paper the Federal Express man came with a book from Jim, that unusual "Lansdale" book. A terrible biography. There could be a great biography about Lansdale. He's no angel; but he is worth a good biography. Currey, a paid hack, did the job. His employers ought to have let him do it right.

I had known Ed since 1952 in the Philippines. I used to fly there regularly with my MATS Heavy Transport Squadron. As a matter of fact, in those days we used to fly wounded men, who were recuperating, from hospitals in Japan to Saigon for R&R on the beaches of Cap St Jacques. That was 1952-1953. Saigon was the Paris of the Orient. And Lansdale was "King Maker" of the Philippines. We always went by way of Manila. I met his team.

He had arrived in Manila in Sept 1945, after the war was over, for a while. He had been sent back there in 1950 by the CIA(OPC) to create a new leader of the Philippines and to get rid of Querino. Sort of like the Marcos deal, or the Noriega operation. Lansdale did it better. I have overthrown a government but I didn't splash it all around like Reagan and Bush have done. Now, who sent him there?

Who sent him there in 1950 (Truman era) to do a job that was not done until 1953 (Ike era)? From 1950 to Feb. 1953 the Director of Central Intelligence was Eisenhower's old Chief of Staff, Gen Walter Bedell Smith. Smith had been Ambassador to Moscow from 1946 to 1949. The lesser guys in the CIA at the time were Allen Dulles, who was Deputy Director Central Intelligence from Aug. 1951 to Feb. 1953. Frank Wisner became the Deputy Director, Plans (Clandestine Activities) when Dulles became DDCI. Lansdale had to have received his orders from among these four men: Truman, Smith, Dulles, and Wisner. Of course the Sec State could have had some input...i.e. Acheson. Who wanted Querino out, that badly? Who wanted HUKS there?

In Jan 1953 Eisenhower arrived. John Foster Dulles was at State and Gen Smith his Deputy. Allen Dulles was the DCI and General Cabel his deputy. None of them changed Lansdale's prior orders to "get" Querino. Lansdale operated with abandon in the Philippines. The Ambassador and the CIA Station Chief, George Aurell, did not know what he was doing. They believed he was some sort of kook Air Force Officer there...a role Lansdale played to the hilt. Magsaysay became President, Dec 30, 1953.

With all of this on the record, and a lot more, this guy Currey comes out of the blue with this purported "Biography". I knew Ed well enough and long enough to know that he was a classic

chameleon. He would tell the truth sparingly and he would fabricate a lot. Still, I can not believe that he told Currey the things Currey writes. Why would Lansdale want Currey to perpetuate such out and out bullshit about him? Can't be. This is a terribly fabricated book. It's not even true about me. I believe that this book was ordered and delineated by the CIA.

At least I know the truth about myself and about Gen. Krulak. Currey libels us terribly. In fact it may be Krulak who caused the book to be taken off the shelves. Krulak and his Copley Press cohorts have the power to get that done, and I encouraged them to do just that when it first came out. Krulak was mad!

Ed told me many a time how he operated in the Philippines. He said, "All I had was a blank checkbook signed by the U.S. government". He made friends with many influential Filipinos. I have met Johnny Orendain and Col Valeriano, among others, in Manila with Lansdale. He became acquainted with the wealthiest Filipino of them all, Soriano. Currey never even mentions him. Soriano set up Philippine Airlines and owned the big San Miguel beer company, among other things. Key man in Asia.

Lansdale's greatest strategy was to create the "HUKS" as the enemy and to make Magsaysay the "Huk Killer." He would take Magsaysay's battalion out into a "Huk" infested area. He would use movies and "battlefield" sound systems, i.e. fireworks to scare the poor natives. Then one-half of Magsaysay's battalion, dressed as natives, would "attack" the village at night. They'd fire into the air and burn some shacks. In the morning the other half, in uniform, would attack and "capture" the "Huks". They would bind them up in front of the natives who crept back from the forests, and even have a "firing" squad "kill" some of them. Then they would have Magsaysay make a big speech to the people and the whole battalion would roll down the road to have breakfast together somewhere...ready for the next "show".

Ed would always see that someone had arranged to have newsmen and camera men there and Magsaysay soon became a national hero. This was a tough game and Ed bragged that a lot of people were killed; but in the end Magsaysay became the "elected" President and Querino was ousted "legally."

This formula endeared Ed to Allen Dulles. In 1954 Dulles established the Saigon Military Mission in Vietnam...counter to Eisenhower's orders. He had the French accept Lansdale as its chief. This mission was not in Saigon. It was not military, and its job was subversion in Vietnam. Its biggest job was that it got more than 1,100,000 northern Vietnamese to move south. 660,000 by U.S. Navy ships and the rest by CIA airline planes. These 1,100,000 north Vietnamese became the "subversive" element in South Vietnam and the principal cause of the warmaking. Lansdale and his cronies (Bohanon, Arundel, Phillips, Hand, Conein and many others) did all that using the same check book. I was with them many times during 1954. All Malthuseanism.

I have heard him brag about capturing random Vietnamese and putting them in a Helicopter. Then they would work on them to make them "confess" to being Viet Minh. When they would not, they would toss them out of the chopper, one after the other, until the last ones talked. This was Ed's idea of fun...as related to me many times. Then Dulles, Adm. Radford and Cardinal Spellman set up Ngo Dinh Diem. He and his brother, Nhu, became Lansdale protégés.

At about 1957 Lansdale was brought back to Washington and assigned to Air Force Headquarters in a Plans office near mine. He was a fish out of water. He didn't know Air Force people and Air Force ways. After about six months of that, Dulles got the Office of Special Operations under General Erskine to ask for Lansdale to work for the Secretary of Defense. Erskine was man enough to control him.

By 1960 Erskine had me head the Air Force shop there. He had an Army shop and a Navy shop and we were responsible for all CIA relationships as well as for the National Security Agency. Ed was still out of his element because he did not know the services; but the CIA sent work his way.

Then in the Fall of 1960 something happened that fired him up. Kennedy was elected over Nixon. Right away Lansdale figured out what he was going to do with the new President. Overnight he left for Saigon to see Diem and to set up a deal that would make him, Lansdale, Ambassador to Vietnam. He had me buy a "Father of his Country" gift for Diem...\$700.00.

I can't repeat all of this but you should get a copy of the Gravel edition, 5 Vol.'s, of the Pentagon Papers and read it. The Lansdale accounts are quite good and reasonably accurate.

Ed came back just before the Inauguration and was brought into the White House for a long presentation to Kennedy about Vietnam. Kennedy was taken by it and promised he would have Lansdale back in Vietnam "in a high office". Ed told us in OSO he had the Ambassadorship sewed up. He lived for that job.

He had not reckoned with some of JFK's inner staff, George Ball, etc. Finally the whole thing turned around and month by month Lansdale's star sank over the horizon. Erskine retired and his whole shop was scattered. The Navy men went back to the navy as did the Army folks. Gen Wheeler in the JCS asked to have me assigned to the Joint Staff. This wiped out the whole Erskine (Office of Special Operations) office. It was comical. There was Lansdale up there all by himself with no office and no one else. He boiled and he blamed it on Kennedy for not giving him the "promised" Ambassadorship to let him "save" Vietnam.

Then with the failure of the Bay of Pigs, caused by that phone call to cancel the air strikes by McGeorge Bundy, the military was given the job of reconstituting some sort of Anti-Castro operation. It was headed by an Army Colonel; but somehow Lansdale (most likely CIA influence) got put into the plans for Operation Mongoose...to get Castro...ostensibly.

The U.S. Army has a think-tank at American University. It was called "Operation Camelot". This is where the "Camelot" concept came from. It was anti-JFK's Vietnam strategy. The men running it were Lansdale types, Special Forces background. "Camelot" was King Arthur and Knights of the Round Table: not JFK...then.

Through 1962 and 1963 Mongoose and "Camelot" became strong and silent organizations dedicated to countering JFK. Mongoose had access to the CIA's best "hit men" in the business and a lot of "strike" capability. Lansdale had many old friends in the media business such as Joe Alsop, Henry Luce among others. With this background and with his poisoned motivation I am positive that he got collateral orders to manage the Dallas event under the guise of "getting" Castro. It is so simple at that level. A nod from the right place, source immaterial, and the job's done.

The "hit" is the easy part. The "escape" must be quick and professional. The cover-up and the scenario are the big jobs. They more than anything else prove the Lansdale mastery.

Lansdale was a master writer and planner. He was a great "scenario" guy. It still have a lot of his personally typed material in my files. I am certain that he was behind the elaborate plan and mostly the intricate and enduring cover-up. Given a little help from friends at PEPSICO he could easily have gotten Nixon into Dallas, for "orientation": and LBJ in the cavalcade at the same time, contrary to Secret Service policy.

He knew the "Protection" units and the "Secret Service", who was needed and who wasn't. Those were routine calls for him, and they would have believed him. Cabell could handle the police.

The "hit men" were from CIA overseas sources, for instance, from the "Camp near Athena, Greece. They are trained, stateless, and ready to go at any time. They ask no questions: speak to no one. They are simply told what to do, when and where. Then they are told how they will be removed and protected. After all, they work for the U.S. Government. The "Tramps" were actors doing the job of cover-up. The hit men are just pros. They do the job for the CIA anywhere. They are impersonal. They get paid. They get protected, and they have enough experience to "blackmail" anyone, if anyone ever turns on them...just like Drug agents. The job was clean, quick and neat. No ripples.

The whole story of the POWER of the Cover-up comes down to a few points. There has never been a Grand Jury and trial in Texas. Without a trial there can be nothing. Without a trial it does no good for researchers to dig up data. It has no place to go and what the researchers reveal just helps make the cover-up tighter, or they eliminate that evidence and the researcher.

The first man LBJ met with on Nov 29th, after he had cleared the foreign dignitaries out of Washington was Waggoner Carr, Atty Gen'l, Texas to tell him, "No trial in Texas...ever."

The next man he met, also on Nov 29th, was J. Edgar Hoover. The first question LBJ asked his old "19 year" neighbor in DC was "Were THEY shooting at me?" LBJ thought that THEY had been shooting at him also as they shot at his friend John Connally. Note that he asked, "Were THEY shooting at me?" LBJ knew there were several hitmen. That's the ultimate clue...THEY.

The Connallys said the same thing...THEY. Not Oswald.

Then came the heavily loaded press releases about Oswald all written before the deal and released actually before LHO had ever been charged with the crime. I bought the first newspaper EXTRA on the streets of Christchurch, New Zealand with the whole LHO story in that first news...photos and columns of it before the police in Dallas had yet to charge him with that crime. All this canned material about LHO was flashed around the world.

Lansdale and his Time-Life and other media friends, with Valenti in Hollywood, have been doing that cover-up since Nov 1963. Even the deMorenschildt story enhances all of this. In deM's personal telephone/address notebook he had the name of an Air Force Colonel friend of mine, Howard Burrus. Burrus was always deep in intelligence. He had been in one of the most sensitive Attache spots in Europe...Switzerland. He was a close friend of another Air Force Colonel and Attache, Godfrey McHugh, who used to date Jackie Bouvier. DeM had Burrus listed under a DC telephone number and on that same telephone number he had "L.B. Johnson, Congressman." Quite a connection. Why...from the Fifties yet.?

Godfrey McHugh was the Air Force Attache in Paris. Another most important job. I knew him well, and I transferred his former Ass't Attache to my office in the Pentagon. This gave me access to a lot of information I wanted in the Fifties. This is how I learned that McHugh's long-time special "date" was the fair Jacqueline...yes, the same Jackie Bouvier. Sen. Kennedy met Jackie in Paris when he was on a trip. At that time JFK was dating a beautiful SAS Airline Stewardess who was the date of that Ass't Attache who came to my office. JFK dumped her and stole Jackie away from McHugh. Leaves McHugh happy????

At the JFK Inaugural Ball who should be there but the SAS stewardess, Jackie--of course, and Col Godfrey McHugh. JFK made McHugh a General and made him his "Military Advisor" in the White

House where he was near Jackie while JFK was doing all that official travelling connected with his office AND other special interests. Who recommended McHugh for the job?

General McHugh was in Dallas and was on Air Force One, with Jackie, on the flight back to Washington..as was Jack Valenti. Why was LBJ's old cohort there at that time and why was he on Air Force One? He is now the Movie Czar. Why in Dallas?

See how carefully all of this is interwoven. Burrus is now a very wealthy man in Washington. I have lost track of McHugh. And Jackie is doing well. All in the Lansdale--deM shadows.

One of Lansdale's special "black" intelligence associates in the Pentagon was Dorothy Matlack of U.S. Army Intelligence. How does it happen that when deM. flew from Haiti to testify, he was met at the National Airport by Dorothy?

The Lansdale story is endless. What people do not do is study the entire environment of his strange career. For example: the most important part of my book, "The Secret Team", is not something that I wrote. It is Appendix III under the title, "Training Under The Mutual Security Program". This is a most important bit of material. It tells more about the period 1963 to 1990 than anything. I fought to have it included verbatim in the book. This material was the work of Lansdale and his crony General Dick Stillwell. Anyone interested in the "JFK Coup d'Etat" ought to know it by heart.

I believe this document tells why the Coup took place. It was to reverse the sudden JFK re-orientation of the U.S. Government from Asia to Europe, in keeping with plans made in 1943 at Cairo and Teheran by T.V. Soong and his Asian masterminds. Lansdale and Stillwell were long-time "Asia hands" as were Gen Erskine, Adm Radford, Cardinal Spellman, Henry Luce and so many others.

In October 1963, JFK had just signalled this reversal, to Europe, when he published National Security Action Memorandum #263 saying...among other things...that he was taking 1000 troops home from Vietnam by Christmas 1963 and ALL AMERICANS out of Vietnam by the end of 1965. That cost him his life.

JFK came to that "Pro-Europe" conclusion in the Summer of 1963 and sent Gen Krulak to Vietnam for advance work. Kurlak and I (with others) wrote that long "Taylor-McNamara" Report of their "Visit to Vietnam" (obviously they did not write, illustrate and bind it as they traveled). Krulak got his information daily in the White House. We simply wrote it. That led to NSAM #263. This same Trip Report is Document #142 and appears on page 751 to 766 of Vol. II of the Gravel Edition of the Pentagon Papers. NSAM #263 appears on pages 769-770 (It makes the Report official). This major Report and NSAM indicated an enormous shift in the orientation of U.S. Foreign Policy from Asia back to Europe. JFK was much more Europe- oriented, as was his father, than pro-Asia. This position was anathema to the Asia-born Luce, etc.

There is the story from an insider. I sat in the same office with Lansdale, (OSO of OSD) for years. I listened to him in Manila and read his flurry of notes from 1952 to 1964. I know all this stuff, and much more. I could write ten books. I send this to you because I believe you are one of the most sincere of the "true researchers". You may do with it as you please. I know you will do it right. I may give copies of this to certain other people of our persuasion. (Years ago I told this to Mae Brussell on the promise she would hold it. She did.)

Now you can see why I have always said that identification of the "Tramps" was unnecessary, i.e. they are actors. The first time I saw that picture I saw the man I knew and I realized why he was there. He caused the political world to spin on its axis. Now, back to recuperating.

(4) Cecil B. Currey, *Edward Lansdale: The Unquiet America* (1988)

In August 1962, SGA brought intelligence collection to an end. On 10 August, members of SGA met in the office of Dean Rusk, the secretary of state. Others who gathered that day included McNamara, John A. McCone, CIA; Edward R. Murrow, director of USIA; McGeorge Bundy, Kennedy's national security adviser; Edward Lansdale; and others. They met to decide on the next phase of Mongoose. Lansdale suggested they now enter Course B, a plan to "exert all possible diplomatic, economic, psychological and other overt pressures to overthrow the Castro-communist regime, without overt employment of U.S. military." Lansdale told his fellow SGA members, "We want boom and bang on the island."

Those present that day also discussed assassinating Castro. Given the Kennedys' fixation on getting rid of him and the activities of Harvey's Task Force W, it is difficult to believe that no such conversations occurred earlier. But that day is the first for which specific evidence exists. John McCone later recalled that it was one of the topics, although he claimed that he personally opposed any such action. He thought it may have been McNamara who brought it up, although the secretary of defense later claimed he could not recall any talk of assassination. Walter Elder, McCone's executive assistant, was in his boss's office when McCone telephoned McNamara shortly after the meeting broke up. Elder remembered that McCone told McNamara that "the subject you just brought up. I think it is highly improper. I do not think it should be discussed. It is not an action that should ever be condoned. It is not proper for us to discuss and I intend to have it expunged from the record."

Not knowing McCone's reluctance to have anything left on paper, Lansdale prepared an action memorandum, dated 13 August, which called for the preparation of contingency plans for "Intelligence, Political (including liquidation of leaders), Economic (sabotage, limited deception) and Paramilitary." He sent copies to William Harvey, to the State Department's Robert Hurwith, to General Benjamin Harris of the Defense Department, and to Donald Wilson, USIA.

Thirteen years later, the Church Committee of the United States Senate gave a long, hard look at allegations that the government of this country had been involved in various assassination attempts on leaders in other nations. The principals who were involved in Mongoose were called upon to give testimony. There was suddenly a veritable implosion of recall and memory. Few could remember anything pertinent, and those who did could do so only vaguely and with uncertainty.

William Harvey had died by that time so it was acceptable to remember his efforts at planning Castro's assassination. When asked if Harvey kept him advised of what he was doing - the CIA man mounted at least eight different attempts on Castro's life - Lansdale insisted he never knew any details. "It would," he recalled, "have been highly unusual for me to know." Lansdale testified before the Church Committee that "I had no knowledge of such a thing. I know of no order or permission for such a thing and I was given no information at all that such a thing was going on by people who I have now learned were involved with it."

As a matter of fact, it would have been "highly unusual" had he not known what was planned, given his grasp of detail, his tight control over Task Force W, and his insistence on staying on top of current activity. Yet when grilled by the Church Committee, Lansdale insisted that when the subject was raised on 10 August, "the consensus was ... hell no on this and there was a very violent reaction."

If that was the decision at the 10 August meeting, why then had Lansdale gone ahead to call for "liquidation" of Cuban leaders? He testified that "I thought it would be a possibility someplace down the road in which there would be some possible need to take action such as that [assassination]."

His position was simple and straightforward. Every means should be explored for removing the threat posed by Fidel Castro. For that reason he instructed Harvey to develop contingency plans in order to learn if the United States had the capability for "wet" actions.

Why had he circulated his memorandum? Lansdale waffled. "I don't recall that thoroughly. I don't remember the reasons why I would." Was it not his understanding that assassination efforts had already been vetoed at the 10 August meeting? "I guess it is, yes," the general replied. "The way you put it to me now has me baffled about why I did it. I don't know." Lansdale added another disclaimer in his plea of innocence. Although he "had doubts" that assassination was a "useful action, and [was] one I had never employed in the past, during work in coping with revolutions, and I had considerable doubts as to its utility ... I was trying to be very pragmatic." As a good soldier, he admitted that any responsibility must have been his own. General Benjamin Harris was a little more open. He testified that such activities are "not out of the ordinary in terms of contingency planning... it's one of the things you look at."

Harris was correct. It was not shameful for the Special Group Augmented to look into the possibility of assassination. In a committee composed of members of the highest level of government, it would rather be shameful had they not explored the subject, assigned as they were to promote the destabilization of Cuba. Whether destabilization itself was a proper subject for American attention is an altogether different question that could be fruitfully considered. That was not, however, the assignment given those men during 1962 by the American president!

When Harvey received Lansdale's memorandum, his first thought was of the danger of leaving such records for future investigative committees. He immediately called Lansdale's office and pointed out "the inadmissibility and stupidity of putting this type of comment in writing in such documents." He further added that CIA "would write no document pertaining to this and would participate in no open meeting discussing it." On 14 August, Harvey wrote Helms stating that although Secretary McNamara had brought up the topic of assassination and Lansdale had written a memorandum about it, liquidation of foreign leaders was not an appropriate subject for inclusion in official records and he further insisted the offending words be deleted from both Lansdale's memorandum and any minutes of the meeting.

Lansdale later recalled only one additional contact with Harvey. He had one brief conversation with the CIA agent after the 10 August meeting. At that time Harvey stated "he would look into it [the assassination of Castro and] see about developing some plans." That, Lansdale insisted, was the last he ever heard about assassinations.

(5) Daniel Ellsberg, interview with Cecil B. Currey (10th May 1967)

The French saw their mission civilatrice as bringing French culture, language, and history to the world. The British saw themselves as conferring the gift of administration, law, and order. Lansdale ... was pretty much an imperialist in the mold of the British except in his case... it was [to bring] democracy. He did think it was in the interest of the people he was working with, the Filipinos, the Vietnamese. At the same time he believed it was very much in their interest to be within the sphere of American influence... that our interest was to be served... by fostering a kind of nationalism and a relative independence which, however, would need American aid and influence but would be independent. It was a way of extending and ensuring a sphere of American influence for the good of America but also for the good of (other) people and against communism, which he despised.

(6) Lalo J. Gastriani, Fair Play Magazine, The Strange Death of Dorothy Hunt (November, 1994)

In the latest issue of Steam Shovel Press in an article by photo analyst Jack White, L. Fletcher Prouty describes one of several known Tramp photos. This particular photo shows the tramps being escorted along a service entrance to the TSBD wall comprised of two high chain-link gates with large diamond-shapes in the center of each. The tramps are facing the camera and a man is seen walking in the opposite direction, back to the camera. Prouty believes that the man walking away from the camera is Edward Lansdale. Lansdale, a planner with the Air Force Directorate and then the CIA-affiliated Office of Special Operations, worked closely with E. Howard Hunt. Lansdale's specialty, according to Prouty, who claims to have also worked closely with him, was staging real-time covers, diversions, and the general "smoke screens" under which assassinations took place. When asked to explain, Prouty alleges that it was Lansdale's job to provide "actors", and "screenplays" for certain black operations deployed by the covert operatives.

(7) Leroy Fletcher Prouty, *An Introduction to the Assassination Business* (1975)

Assassination is big business. It is the business of the CIA and any other power that can pay for the "hit" and control the assured getaway. The CIA brags that its operations in Iran in 1953 led to the pro-Western attitude of that important country. The CIA also takes credit for what it calls the "perfect job" in Guatemala. Both successes were achieved by assassination. What is this assassination business and how does it work?

In most countries there is little or no provision for change of political power. Therefore the strongman stays in power until he dies or until he is removed by a coup d'etat - which often means by assassination...

The CIA has many gadgets in its arsenal and has spent years training thousands of people how to use them. Some of these people, working perhaps for purposes and interests other than the CIA's, use these items to carry out burglaries, assassinations, and other unlawful activities - with or without the blessing of the CIA.

(8) Edward Lansdale, quoted by Cecil B. Currey in his book *Edward Lansdale: The Unquiet American* (1998)

I continue to be surprised to find Fletcher Prouty quoted as an authority. He was my "cross to bear" before Dan Ellsberg came along. Fletch is the one who blandly told the London Times that I'd invented the Huk Rebellion, hired a few actors in Manila, bussed them out to Pampanga, and staged the whole thing as press agency to get RM (Magsaysay) elected. He was a good pilot of prop-driven aircraft, but had such a heavy dose of paranoia about CIA when he was on my staff that I kicked him back to the Air Force. He was one of those who thought I was secretly running the Agency from the Pentagon, despite all the proof otherwise.

(9) Eric Pace, *The New York Times* (24th February, 1987)

Edward G. Lansdale, an Air Force officer whose influential theories of counterinsurgent warfare proved successful in the Philippines after World War II but failed to bring victory in South Vietnam, died yesterday at his home in McLean, Va. He was 79 years old and had a heart ailment.

A dashing Californian, Mr. Lansdale is widely thought to have been the model for characters in two novels involving guerrilla warfare in Southeast Asia: "The Quiet American" by Graham Greene and "The Ugly American" by Eugene Burdick and William J. Lederer. He retired from the Air Force as a major general in 1963.

As an adviser in the newly independent Philippines in the late 1940's and early 1950's the future general came to wield great influence in operations by the Philippine leader Ramon Magsaysay against the Communist-dominated Hukbalahap rebellion. Under the leadership of Mr. Magsaysay, who was elected President while the struggle was going on, the operations succeeded.

It was in the Philippines that General Lansdale framed his basic theory, that Communist revolution was best confronted by democratic revolution. He came to advocate a four-sided campaign, with social, economic and political aspects as well as purely military operations. He put much emphasis on what came to be called civic-action programs to undermine Filipinos' backing for the Huks.

Looking back on what he learned in Asia, he once said: "The Communists strive to split the people away from the Government and gain control over a decisive number of the population. The sure defense against this strategy is to have the citizenry and the Government so closely bound together that they are unsplittable."

With that victory behind him, General Lansdale initially commanded great respect in the 1960's as an adviser to South Vietnamese and United States military leaders, and to Ambassador Henry Cabot Lodge.

But his efforts to generate popular support for the embattled Saigon Government, at a time when the United States military role in Vietnam remained limited, failed to forestall an escalation of the insurgency to full-scale conventional warfare. Intellectual Direction

Early in the war, General Lansdale was considered to be the individual who provided the intellectual direction to the counterinsurgency and nation-building efforts. But he became less significant when the conflict left the counterinsurgency phase and became a more conventional war.

(10) Georgie Anne Geyer, *Washington Monthly* (June, 1989)

Who was Lansdale? To Graham Greene, he was Alden Pyle, "The Quiet American," a classic American innocent, not in Paris but in the poisoned, unfinished trouble spots of the world, nothing more than a CIA agent with "an unmistakably young and unused face." To Jean Larteguy, he was Colonel Lionel Teryman, "Le Male Jaune," a tough, brutal new American midwest version of Lawrence of Arabia. To the American writers William Lederer and Eugene Barnum Hillandale, "The Ugly American," practically the only American who understood how to mold with original hands the real and fractious world of new decolonized countries. To his brother, Benjamin Carroll Lansdale, he was always a "revolutionary." Quixotically and finally, Oliver North, totally unlike Lansdale in any sense of realism or proportion, looked upon himself as "Lansdalian"...

Lansdale was no angel. He took an important part in the CIA's "Operation Mongoose" to assassinate Cuban leader Fidel Castro. He strangely went against his own most treasured rules in Vietnam, when he was trying desperately to build support for Diem, by bribing generals of the many sects in Vietnam to bring their men behind Diem. In his own book, he then lied about this, an unpalatable act that was later revealed in the Pentagon Papers. And yet he knew things and he represented ideas and possibilities that were so far beyond the rigid and stratified - and, as it turned out, tragically unsuccessful - military thinking of his time that he remains a lone and original operational giant of modern warfare and America's role in it.

As Lansdale moved toward his death in 1987, he tried to call America to the real world of irregular conflict by recalling Continental troops at Valley Forge, officers and men under American guerilla leaders like Marion or Greene. He talked of the motivation of modern insurgent troops, of the use of propaganda. When Richard Nixon, who respected Lansdale, asked him in 1984 for some of his brief

thoughts about modern wars, Lansdale wrote that "conventional operations are more apt to widen the problem or to be more cosmetic than a cure." The people were the true battleground of war and "whoever wins them, wins the war."

(11) Review of *Edward Lansdale's Cold War* (2004)

A cultural biography of a legendary Cold War figure; The man widely believed to have been the model for Alden Pyle in Graham Greene's *The Quiet American*, Edward G. Lansdale (1908-1987) was a Cold War celebrity. A former advertising executive turned undercover CIA agent, he was credited during the 1950s with almost single-handedly preventing a communist takeover of the Philippines and with helping to install Ngo Dinh Diem as president of the American-backed government of South Vietnam. Adding to his notoriety, during the Kennedy administration Lansdale was put in charge of Operation Mongoose, the covert plot to overthrow the government of Cuba's Fidel Castro by assassination or other means. In this book, Jonathan Nashel reexamines Lansdale's role as an agent of American Cold War foreign policy and takes into account both his actual activities and the myths that grew to surround him. In contrast to previous portraits, which tend to depict Lansdale either as the incarnation of U.S. imperialist ambitions or as a farsighted patriot dedicated to the spread of democracy abroad, Nashel offers a more complex and nuanced interpretation. At times we see Lansdale as the arrogant "ugly American," full of confidence that he has every right to make the world in his own image and utterly blind to his own cultural condescension. This is the Lansdale who would use any conceivable gimmick to serve U.S. aims, from rigging elections to sugaring communist gas tanks. Elsewhere, however, he seems genuinely respectful of the cultures he encounters, open to differences and new possibilities, and willing to tailor American interests to Third World needs. Rather than attempting to reconcile these apparently contradictory images of Lansdale, Nashel explores the ways in which they reflected a broader tension within the culture of Cold War America. The result is less a conventional biography than an analysis of the world in which Lansdale operated and the particular historical forces that shaped him - from the imperatives of anticommunist ideology and the assumptions of modernization theory to the techniques of advertising and the insights of anthropology.

(12) Andrew J. Rotter, *Diplomatic History* (2005)

The authorized biography of Lansdale is Cecil Currey's *Edward Lansdale: The Unquiet American*, published in 1988. Currey had previously written a book critical of the performance of the U.S. military command in Vietnam, and in it he had quoted approvingly Lansdale's lament that the United States had failed in Vietnam despite its use of "overwhelming amounts of men, money, and material"; the implication was that counterinsurgency, including greater and more sympathetic contact with the Vietnamese people, would have been a better strategy. If not quite hagiographic, Currey's treatment of Lansdale was, as Nashel puts it, "adulatory" (p. 3). (Nashel mentions having found a poignant photograph of Currey pushing a wheelchair-bound Lansdale through Disneyworld late in Lansdale's life.) The other key source on Lansdale was Lansdale himself. His memoir, *In the Midst of Wars*, was published in 1972. Reviewers at the time pointed out that Lansdale had omitted some salient facts about his career, such as his lengthy employment by the CIA. However, the book was full of stories about Lansdale's exploits in the Philippines and Vietnam, disarmingly modest accounts of how he helped Ramon Magsaysay take charge in the Philippines, how he had tried to put some spine into South Vietnamese leader Ngo Dinh Diem and conducted psychological warfare against Diem's enemies in the North, and, most gleefully, how he had frustrated French authorities in their efforts to keep control of some portion of their Indochina colony during the mid-1950s. The memoir was written in the style of an adventure novel, as Nashel notes. It was skillful most of all in its ability to conceal the truth by dint of its seeming candor: Lansdale made himself sound so mischievous that it was impossible to believe that he was not telling the whole story. Readers charmed by his tales, disarmed by his humor and playfulness and mildly confessional tone, were not likely to ask whether there was anything dirtier he was up to, or to question his assumptions at all.

Nashel is hardly unsympathetic to Lansdale, though at times he seems appalled or amused by him. Each of his chapters treats a different facet of Lansdale's identity. Nashel first describes Lansdale as an advertising man, as indeed he was for a time during the 1930s and 1940s. Lansdale wrote ads for food products and blue jeans. He would later advertise democracy and modernity, and use an ad-man's images and slogans to undercut the appeal of the Huks in the Philippines and the Viet Minh in Vietnam. He communicated not only through language but by using gestures, friendly touches, and slaps on the back; he did not speak Tagalog or Vietnamese but never felt burdened by this, for he knew, he said, how to gain a man's confidence by acting confidential. As an advocate for consumerism, Lansdale sold Asians the American dream, or tried to. He was also, of course, a spy. The details of Lansdale's work for the CIA remain classified - when Lansdale's papers appeared at the Hoover Institution in the early 1980s, agents turned up and carted off to Washington all the documents that revealed his connection to the agency - and Lansdale appreciated what Nashel rightly terms "the power of secrets" (p. 77) to manipulate people. Lansdale's loathing of communism and his ad-man's understanding of the importance of communication made him the consummate secret agent, even as he enjoyed pretending that he was no such thing.

(13) Sterling Seagrave, *Edward Lansdale* (14th November, 2008)

It is an inescapable fact that from the beginning of the US occupation of Japan, General MacArthur, President Truman, John Foster Dulles, and others, knew all about the stolen treasure in Japan and the continuing extraordinary wealth of the Japanese elite, despite losing the war.

In an official report on the occupation prepared by MacArthur's headquarters and published in 1950, there is a startling admission: "One of the spectacular tasks of the occupation dealt with collecting and putting under guard the great hoards of gold, silver, precious stones, foreign postage stamps, engraving plates, and all currency not legal in Japan."

Even though the bulk of this wealth was collected and placed under United States military custody by Japanese officials, undeclared caches of these treasures were known to exist."

MacArthur's staff knew, for example, of \$2-billion in gold bullion that had been sunk in Tokyo Bay, later recovered. Another great fortune discovered by U.S. intelligence services in 1946 was \$13-billion in war loot amassed by underworld godfather Kodama Yoshio who, as a 'rear admiral' in the Imperial Navy working with Golden Lily in China and Southeast Asia, was in charge of plundering the Asian underworld and racketeers. He was also in charge of Japan's wartime drug trade throughout Asia. Kodama specialized in looting platinum for his own hoard. As this was too heavy to airlift to Japan, Kodama also helped himself to the finest gems looted by his men, taking large bags of gems to Japan each time he flew back during the war.

After the war, to get out of Sugamo Prison and avoid prosecution for war crimes, Kodama gave over \$100-million in US currency to the CIA. He was also, amazingly, put on General Willoughby's payroll, and remained on the CIA payroll for the rest of his life, among other favors brokering the Lockheed aircraft deal that became a major scandal for Japan's Liberal Democratic Party. Kodama personally financed the creation of the postwar political parties that merged into the Liberal Democratic Party (LDP), strongly backed to this day by Washington.

Both Kodama and his underworld associate Sasakawa Ryiochi, were then involved with the CIA in joint recoveries of Japanese war-loot from the Philippines.

On September 2, 1945, after receiving official notice of Japan's surrender, General Yamashita and his staff emerged from their mountain stronghold in the Kiangnan Pocket on Luzon, and presented their swords to a group of U.S. Army officers led by Military Police Major A.S. 'Jack' Kenworthy, who

took them to Bilibad Prison outside Manila. Because of gruesome atrocities committed earlier by Admiral Iwabuchi Kanji's sailors and marines in the city of Manila (after Yamashita had ordered them to leave the city unharmed), the general was charged with war crimes. During his trial there was no mention of war loot. But there was a hidden agenda.

Because it was not possible to torture General Yamashita physically without this becoming evident to his defense attorneys, members of his staff were tortured instead. His driver, Major Kojima Kashii, was given special attention. Since Yamashita had arrived from Manchuria in October 1944 to take over the defense of the Philippines, Kojima had driven him everywhere.

In charge of Kojima's torture was a Filipino-American intelligence officer named Severino Garcia Diaz Santa Romana, a man of many names and personalities, whose friends called him 'Santy'. He wanted Major Kojima to reveal each place to which he had taken Yamashita, where bullion and other treasure were hidden.

Supervising Santy was Captain Edward G. Lansdale, later one of America's best-known Cold Warriors. In September 1945, Lansdale was 37 years old and utterly insignificant, only an advertising agency copywriter who had spent the war in San Francisco writing propaganda for the OSS. In September 1945, chance entered Lansdale's life in a big way when President Truman ordered the OSS to close down. To preserve America's intelligence assets, and his own personal network, OSS chief Donovan moved personnel to other government or military posts. Captain Lansdale was one of fifty office staff given a chance to transfer to U.S. Army G-2 in the Philippines.

There, Lansdale heard about Santy torturing General Yamashita's driver, and joined the torture sessions as an observer and participant.

Early that October, Major Kojima broke down and led Lansdale and Santy to more than a dozen Golden Lily treasure vaults in the mountains north of Manila.

While Santy and his teams set to opening the rest of these vaults, Captain Lansdale flew to Tokyo to brief General MacArthur, then on to Washington to brief President Truman. After discussions with his cabinet, Truman decided to proceed with the recovery, but to keep it a state secret.

The treasure – gold, platinum, and barrels of loose gems – was combined with Axis loot recovered in Europe to create a worldwide covert political action fund to fight communism. This 'black gold' gave the Truman Administration access to virtually limitless unvouchered funds for covert operations. It also provided an asset base that was used by Washington to reinforce the treasuries of its allies, to bribe political leaders, and to manipulate elections in foreign countries...

After briefing President Truman and others in Washington, including McCloy, Lovett, and Stimson, Captain Lansdale returned to Tokyo in November 1945 with Robert B. Anderson. General MacArthur then accompanied Anderson and Lansdale on a covert flight to Manila, where they set out for a tour of the vaults Santy already had opened. In them, we were told, Anderson and MacArthur strolled down "row after row of gold bars stacked two meters tall". From what they saw, it was evident that over a period of 50 years (1895-1945) Japan had looted many billions of dollars in treasure from all over Asia. A far longer period than Germany had to loot Europe. Over five decades, Japan had looted billions of dollars' worth of gold, platinum, diamonds, and other treasure, from all over East and Southeast Asia. Much of this had reached Japan by sea, or overland from China through Korea. What was seen by Anderson and MacArthur was only some of the gold that had not reached Japan after 1943, when the US submarine blockade of the Home Islands became effective. From this it is obvious that what was looted by Japan on the Asian mainland from 1895-1943 had reached Japan

and been tucked away there in what the US Army statement called "undeclared caches of these treasures ... known to exist" .

Far from being bankrupted by the war, Japan had been greatly enriched, and -- thanks to Washington's intervention -- used this treasure to rise like a phoenix from the ashes, while its victims struggled on for decades.

The gold recovered in the Philippines was not put in Fort Knox to benefit American citizens. There has been no audit of Ft. Knox since 1950.

According to Ray Cline and others, between 1945 and 1947 the gold bullion recovered by Santy and Lansdale was discreetly moved by ship to 176 accounts at banks in 42 countries. The gold was trucked to warehouses at the U.S. Navy base in Subic Bay, or the U.S. Air Force base at Clark Field.

Preference went to the U.S. Navy because of the weight of the bullion. Secrecy was vital. If the recovery of a huge mass of stolen gold became known, the market price of gold would plummet, and thousands of people would come forward to claim it, and Washington would be bogged down resolving ownership.

The secrecy surrounding these recoveries was total. Robert Anderson and CIA agent Paul Helliwell traveled all over the planet, setting up these black gold accounts, providing money for political action funds throughout the noncommunist world. In 1953, to reward him, President Eisenhower nominated Anderson to a Cabinet post as secretary of the Navy. The following year he rose to deputy secretary of Defense. During the second Eisenhower Administration, he became secretary of the Treasury, serving from 1957 to 1961. After that, Anderson resumed private life, but remained intimately involved with the CIA's worldwide network of "black banks", set up by Paul Helliwell. Eventually, this led to Anderson being involved in the scandal of BCCI, the Bank of Credit and Commerce International, a Pakistani bank with CIA ties.

No one made better use of the recoveries than Lansdale. For his role in enabling the Black Eagle Trust, Lansdale became the darling of the Dulles brothers and their Georgetown coven, which included key officials in the CIA during the years it was run by Allen Dulles. Writing to the U.S. Ambassador in Manila, Admiral Raymond Spruance, Allen Dulles called Lansdale "our mutual friend". In the early 1950s, Allen Dulles gave Lansdale \$5-million to finance CIA operations against the Huks, rural peasant farmers fighting for land-reform in the Philippines. When he sent Lansdale to Vietnam in 1954, Dulles told Eisenhower he was sending one of his "best men". In the late 1950s, he was in and out of Tokyo on secret missions with a hand-picked team of Filipino assassins, assassinating leftists, liberals and progressives.

Lansdale was also close to Richard Nixon, and headed efforts to assassinate Cuba's Fidel Castro. Without exception, Lansdale's Asian adventures were costly failures. But Washington's effort to boost the LDP in Japan was a big success.

(14) Matthew Alford and Robbie Graham, *The Guardian* (14th November, 2008)

Everyone who watches films knows about Hollywood's fascination with spies. From Hitchcock's postwar espionage thrillers, through cold war tales such as *Torn Curtain*, into the paranoid 1970s when the CIA came to be seen as an agency out of control in films such as *Three Days of the Condor*, and right to the present, with the Bourne trilogy and Ridley Scott's forthcoming *Body of Lies*, film-makers have always wanted to get in bed with spies. What's less widely known is how much the spies have wanted to get in bed with the film-makers. In fact, the story of the CIA's involvement in Hollywood is a tale of deception and subversion that would seem improbable if it were put on screen.

The model for this is the defence department's "open" but barely publicised relationship with Hollywood. The Pentagon, for decades, has offered film-makers advice, manpower and even hardware - including aircraft carriers and state-of-the-art helicopters. All it asks for in exchange is that the US armed forces are made to look good. So in a previous Scott film, *Black Hawk Down*, a character based on a real-life soldier who had also been a child rapist lost that part of his backstory when he came to the screen.

No matter how seemingly craven Hollywood's behaviour towards the US armed forces has seemed, it has at least happened within the public domain. That cannot be said for the CIA's dealings with the movie business. Not until 1996 did the CIA announce, with little fanfare, that it had established an Entertainment Liaison Office, which would collaborate in a strictly advisory capacity with film-makers. Heading up the office was Chase Brandon, who had served for 25 years in the agency's elite clandestine services division, as an undercover operations officer. A PR man he isn't, though he does have Hollywood connections: he's a cousin of Tommy Lee Jones.

But the past 12 years of semi-acknowledged collaboration were preceded by decades in which the CIA maintained a deep-rooted but invisible influence of Hollywood. How could it be otherwise? As the former CIA man Bob Baer - whose books on his time with the agency were the basis for *Syriana* - told us: "All these people that run studios - they go to Washington, they hang around with senators, they hang around with CIA directors, and everybody's on board."

There is documentary evidence for his claims. Luigi Luraschi was the head of foreign and domestic censorship for Paramount in the early 1950s. And, it was recently discovered, he was also working for the CIA, sending in reports about how film censorship was being employed to boost the image of the US in movies that would be seen abroad. Luraschi's reports also revealed that he had persuaded several film-makers to plant "negroes" who were "well-dressed" in their movies, to counter Soviet propaganda about poor race relations in the States. The Soviet version was rather nearer the truth.

Luraschi's activities were merely the tip of the iceberg. Graham Greene, for example, disowned the 1958 adaptation of his Vietnam-set novel *The Quiet American*, describing it as a "propaganda film for America". In the title role, Audie Murphy played not Greene's dangerously ambiguous figure - whose belief in the justice of American foreign policy allows him to ignore the appalling consequences of his actions - but a simple hero. The cynical British journalist, played by Michael Redgrave, is instead the man whose moral compass has gone awry. Greene's *American* had been based in part on the legendary CIA operative in Vietnam, Colonel Edward Lansdale. How apt, then, that it should have been Lansdale who persuaded director Joseph Mankiewicz to change the script to suit his own ends.

The CIA didn't just offer guidance to film-makers, however. It even offered money. In 1950, the agency bought the rights to George Orwell's *Animal Farm*, and then funded the 1954 British animated version of the film. Its involvement had long been rumoured, but only in the past decade have those rumours been substantiated, and the tale of the CIA's role told in Daniel Leab's book *Orwell Subverted*.

The most common way for the CIA to exert influence in Hollywood nowadays is not through anything as direct as funding, or rewriting scripts, but offering to help with matters of verisimilitude. That is done by having serving or former CIA agents acting as advisers on the film, though some might wonder whether there is ever really such a thing as a "former agent". As ex-CIA agent Lindsay Moran, the author of *Blowing My Cover*, has noted, the CIA often calls on former officers to perform tasks for their old employer.

So it was no problem for CBS to secure official help when making its 2001 TV series *The Agency* (it was even written by a former agent). Langley was equally helpful to the novelist Tom Clancy, who was invited to CIA headquarters after the publication of *The Hunt for Red October*, an invitation that was regularly repeated. Consequently, when Clancy's *The Sum of All Fears* was filmed in 2002, the agency was happy to bring its makers to Langley for a personal tour of headquarters, and to offer access to agency analysts for star Ben Affleck. When filming began, Brandon was on set to advise - a role he repeated during the filming of glamorous television series *Alias*.

(15) Hugh Wilford, *The Mighty Wurlitzer: How the CIA Played America* (2008)

Perhaps the most remarkable instance of cooperation between Lansdale and the American Friends of Vietnam involved a third party: movie director, producer, and screenwriter Joseph L. Mankiewicz. Early in 1956 Mankiewicz, whose filmography included such popular and critical successes as *The Philadelphia Story* and *All About Eve*, visited Saigon to research locations for a cinematic version of Greene's *The Quiet American*. During this trip, he met both with staff of the International Rescue Committee's Vietnam office and Lansdale himself, who followed up the encounter with a long letter offering various pieces of advice about the project, chief of which was the suggestion that Mankiewicz depict an incident portrayed in Greene's novel, the bombing of a Saigon square in 1952 by a Vietnamese associate of Lansdale's, General Trinh Minh The (and attributed by Greene to the baleful influence of the American, Pyle), as "actually having been a Communist action."

On his return home, Mankiewicz contacted the chair of the AFV, Iron Mike O'Daniel, telling him that he intended "completely chang[ing] the anti-American attitude" of Greene's book. The U.S. ambassador to South Vietnam, Frederick Reinhardt, was sympathetic but skeptical, telling the American Friends of Vietnam's Executive Committee: "If (the book) were to be edited into a state of complete unobjectionableness, there might be nothing left but the title and scenery." This is, however, precisely what Mankiewicz proceeded to do, turning the American character into his hero and portraying Greene's fictional alter ego and Pyle's nemesis, the English journalist Fowler, as a communist stooge. Not only that, in an astonishing piece of casting apparently suggested by O'Daniel, the part of Pyle - in Greene's novel, a callow Ivy League Brahmin - was given to the World War II hero Audie Murphy, a fine soldier but limited actor, who reportedly distressed his English costar, Michael Redgrave, by storing a .45 and 500 rounds of ammunition in his Saigon hotel room to protect himself from Vietminh agents. "I figured if they were going to get me," he explained, "I'd give them a good fight first."

The resulting movie was a travesty of Greene's book, but Lansdale was delighted. After a premiere at Washington's Playhouse Theater, the proceeds of which were donated to the AFV, the spy wrote his friend Diem describing "Mr. Mankiewicz's 'treatment' of the story" as "an excellent change from Mr. Greene's novel of despair," and suggesting "that it will help win more friends for you and Vietnam in any places in the world where it is shown."

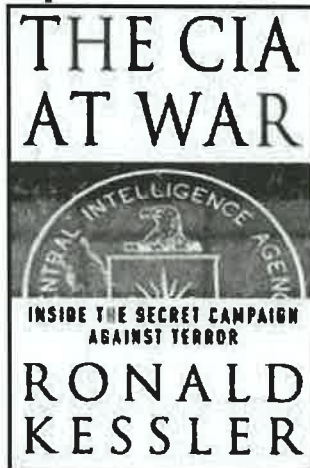
It was a brilliantly devious maneuver of postmodern literary complexity: by helping to rewrite a story featuring a character reputedly based on himself, Lansdale had transformed an anti-American tract into a cinematic apology for U.S. policy - and his own actions-in Vietnam. Greene himself was understandably furious. "Far was it from my mind, when I wrote *The Quiet American*," the Englishman raged, "that the book would become a source of spiritual profit to one of the most corrupt governments in Southeast Asia."

Found at: <https://spartacus-educational.com/COLDlansdale.htm>

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Operation Mongoose



In March 1960, President Dwight Eisenhower of the United States approved a Central Intelligence Agency (CIA) plan to overthrow Fidel Castro. The plan involved a budget of \$13 million to train "a paramilitary force outside Cuba for guerrilla action." The strategy was organized by Richard Bissell and Richard Helms.

In September 1960, Allen W. Dulles, the director of the CIA, initiated talks with two leading figures of the Mafia, Johnny Roselli and Sam Giancana. Later, other crime bosses such as Carlos Marcello, Santos Trafficante and Meyer Lansky became involved in this plot against Castro.

After the Bay of Pigs disaster President John F. Kennedy created a committee (SGA) charged with overthrowing Castro's government. The SGA, chaired by Robert F. Kennedy (Attorney General), included Allen W. Dulles (CIA Director), later replaced by John McCone, Alexis Johnson (State Department), McGeorge Bundy (National Security Adviser), Roswell Gilpatric (Defense Department), General Lyman Lemnitzer (Joint Chiefs of Staff) and General Maxwell Taylor. Although not officially members, Dean Rusk (Secretary of State) and Robert S. McNamara (Secretary of Defense) also attending meetings.

At a meeting of this committee at the White House on 4th November, 1961, it was decided to call this covert action program for sabotage and subversion against Cuba, Operation Mongoose. Attorney General Robert F. Kennedy also decided that General Edward Lansdale (Staff Member of the President's Committee on Military Assistance) should be placed in charge of the operation.

The CIA JM/WAVE station in Miami served as operational headquarters for Operation Mongoose. The head of the station was Ted Shackley and over the next few months became very involved in the attempt to overthrow Fidel Castro. One of Lansdale's first decisions was to appoint William Harvey as head of Task Force W. Harvey's brief was to organize a broad range of activities that would help to bring down Castro's government.

Sidney Gottlieb of the CIA Technical Services Division was asked to come up with proposals that would undermine Castro's popularity with the Cuban people. Plans included a scheme to spray a television studio in which he was about to appear with an hallucinogenic drug and contaminating his shoes with thallium which they believed would cause the hair in his beard to fall out.

On 12th March, 1961, William Harvey arranged for CIA operative, Jim O'Connell, to meet Sam Giancana, Santo Trafficante, Johnny Roselli and Robert Maheu at the Fontainebleau Hotel. During the meeting O'Connell gave poison pills and \$10,000 to Roselli to be used against Fidel Castro. As Richard D. Mahoney points out in his book: *Sons and Brothers*: "Late one evening, probably March 13, Roselli passed the poison pills and the money to a small, reddish-haired Afro-Cuban by the name of Rafael "Macho" Gener in the Boom Boom Room, a location Giancana thought "stupid." Roselli's purpose, however, was not just to assassinate Castro but to set up the Mafia's partner in crime, the United States government. Accordingly, he was laying a long, bright trail of evidence that unmistakably implicated the CIA in the Castro plot. This evidence, whose purpose was blackmail, would prove critical in the CIA's cover-up of the Kennedy assassination."

Lansdale also brought into Operation Mongoose a group of CIA operatives who had successfully overthrown President Jacobo Arbenz of Guatemala in 1954. This included Tracy Barnes, David Atlee Phillips, David Sanchez Morales, William (Rip) Robertson and E. Howard Hunt.

The Federal Bureau of Investigation had to be brought into this plan as part of the deal involved protection against investigations against the Mafia in the United States. Castro was later to complain that there were twenty CIA-sponsored attempts on his life. Eventually Johnny Roselli and his friends became convinced that the Cuban revolution could not be reversed by simply removing its leader. However, they continued to play along with this CIA plot in order to prevent them being prosecuted for criminal offences committed in the United States.

Robert F. Kennedy now took the leading role in trying to overthrow Fidel Castro. At a meeting in November, 1961, Kennedy accused Bissell of "not doing anything about getting rid of Castro and the Castro regime." CIA agent Sam Halpern complained that "Bobby (Kennedy) wanted boom and bang all over the island... it was stupid... the pressure from the White House was very great." Bissell did what he could to arrange the assassination of Castro. This included asking William Harvey to take over the Mafia contracts from Sheffield Edwards.

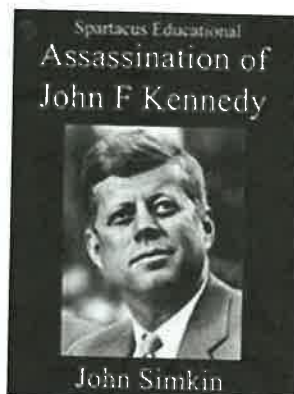
To counteract this policy Nikita Khrushchev sent Castro help. By October, 1962, the Soviet Union had 40,000 soldiers, 1,300 field pieces, 700 anti-aircraft guns, 350 tanks and 150 jets in Cuba in order to deter another invasion. He also began supplying Castro with nuclear-tipped ballistic missiles.

In 1962 Desmond FitzGerald was appointed Chief of the Cuban Task Force. In this post he personally organized three different plots to assassinate Fidel Castro. This included working with Rolando Cubela, a senior official in Castro's government. He was given the codename AM/LASH and reported to JMWAVE. However, Joseph Langosch, of the Special Affairs Staff, suspected that Cubela was a "dangle" (a double agent recruited by Castro to penetrate the American plots against him". This idea was reinforced when Cubela refused to take a lie-detector test.

In September, 1963, Cubela had a meeting with the CIA in Sao Paulo, Brazil. It was suggested that Cubela should assassinate Fidel Castro. According to a CIA report Cubela asked for a meeting with Robert Kennedy: "for assurances of U.S. moral support for any activity Cubela under took in Cuba." This was not possible but FitzGerald, now Chief of the Cuban Task Force, agreed to meet Cubela. Ted Shackley was opposed to the idea as he was now convinced that Cubela was a double-agent.

Desmond FitzGerald and Nestor Sanchez met Cubela met in Paris on 29th October, 1963. Cubela requested a "high-powered, silenced rifle with an effective range of hundreds of thousands of yards" in order to kill Fidel Castro. The CIA refused and instead insisted on Cubela used poison. On 22nd November, 1963, FitzGerald handed over a pen/syringe. He was told to use Black Leaf 40 (a deadly poison) to kill Castro. As Cubela was leaving the meeting, he was informed that President John F. Kennedy had been assassinated.

On 7th April, 1964, the SGA officially brought an end to the sabotage operations against Cuba. John McCone, director of the CIA, stated that President Lyndon B. Johnson had abandoned the goal of overthrowing or "eliminating" Castro.



Assassination of John F. Kennedy Encyclopedia

By John Simkin (john@spartacus-educational.com) © September 1997 (updated January 2020).



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Primary and Secondary Sources

(1) Chauncey Holt was interviewed by John Craig, Phillip Rogers and Gary Shaw for Newsweek magazine (19th October, 1991)

There may be certain types of assassination that they're good at, but other types they're not. So they enlisted the better known names, Giancana, Roselli, in Operation Mongoose. And you had Edward Lansdale, and William King Harvey, all the guys who became legends. And there is no use in expounding on their careers and how they got involved in this.

Also, one of the lesser known people involved in this was Peter Licavoli. Licavoli was a confidant, close to both Giancana and Roselli. And he had a ranch in Tucson, Arizona. It was very nicely placed and had a landing strip on it. So he was involved in Mongoose because of the location (of his ranch), and it was a nice place to have meetings and they had meetings there. His involvement in Mongoose was a marginal type thing.

I really don't think that Roselli or Giancana or Maheu ever were all that serious about knocking off Castro. They wanted to get some leverage against the government. They were trying to deport Roselli, they were chasing Giancana all over the landscape and they were willing to use anything they could to actually give them an edge.

(2) Richard Bissell, *Reflections of a Cold Warrior* (1996)

(The Mafia-connection aspect) did not originate with me - and I had no desire to become personally involved in its implementation, mainly because I was not competent to handle relations with the Mafia. It is true, however, that, when the idea was presented to me, I supported it, and as Deputy Director for Plans I was responsible for the necessary decisions.... Sheffield Edwards, the director of the Agency's Office of Security - and his deputy became the case officers for the Agency's relations with the Mafia. Edwards was frank with me about his efforts, and I authorized him to continue... I do not recall any specific contact with the Mafia, but Doris Mirage, my secretary at the time, does...

I hoped the Mafia would achieve success. My philosophy during my last two or three years in the Agency was very definitely that the end justified the means, and I was not going to be held back. Shortly after I left the CIA, however, I came to believe that it had been a mistake to involve the Mafia in an assassination attempt. This is partly a moral judgment, but I must admit it is also partly a pragmatic judgment.

(3) Richard D. Mahoney, *Sons and Brothers: The Days of Jack and Bobby Kennedy* (1999)

Late one evening, probably March 13, Rosselli passed the poison pills and the money to a small, reddish-haired Afro-Cuban by the name of Rafael "Macho" Gener in the Boom Boom Room, a location Giancana thought "stupid."

Rosselli's purpose, however, was not just to assassinate Castro but to set up the Mafia's partner in crime, the United States government. Accordingly, he was laying a long, bright trail of evidence that unmistakably implicated the CIA in the Castro plot. This evidence, whose purpose was blackmail, would prove critical in the CIA's cover-up of the Kennedy assassination.

(4) Leroy Fletcher Prouty, *An Introduction to the Assassination Business* (1975)

Assassination is big business. It is the business of the CIA and any other power that can pay for the "hit" and control the assured getaway. The CIA brags that its operations in Iran in 1953 led to the pro-Western attitude of that important country. The CIA also takes credit for what it calls the "perfect job" in Guatemala. Both successes were achieved by assassination. What is this assassination business and how does it work?

In most countries there is little or no provision for change of political power. Therefore the strongman stays in power until he dies or until he is removed by a coup d'etat - which often means by assassination...

The CIA has many gadgets in its arsenal and has spent years training thousands of people how to use them. Some of these people, working perhaps for purposes and interests other than the CIA's, use these items to carry out burglaries, assassinations, and other unlawful activities - with or without the blessing of the CIA.

(5) Christopher Sharrett, Fair Play Magazine, *The Assassination of John F. Kennedy as Coup D'Etat* (May, 1999)

One phase of this narrative is represented in Gus Russo's *Live by the Sword*. The moralistic biblical admonition of this book's title offers its thesis: Kennedy got what he deserved. Russo's conception of the Kennedy brothers portrays them as the ultimate Cold Warriors, with RFK the instigator of plots against Fidel Castro that LBJ wanted to hide in the aftermath of the assassination in order to prevent a war with the Soviet Union. According to this narrative, LBJ believed that "Castro killed Kennedy in retaliation," an idea that has long had currency in the mass media. But this discourse ignores a large part of the historical record. Marvin Watson, a Johnson staffer, told the *Washington Post* in 1977 that

Johnson "thought there was a plot in connection with the assassination," and that "the CIA had had something to do with the plot."

On the matter of RFK being the guilt-ridden instigator of the Castro plots, anguished that he had caused his brother's death due to his anti-Castro obsessions, we should note that Robert Kennedy exploded in front of assistants Peter Edelman and Adam Walinsky after he read the Jack Anderson column that put into play the idea of RFK as craftsman of the Castro assassination plots. RFK complained "I didn't start it, I stopped it. I found out that some people were going to try an attempt on Castro's life and turned it off. A recent Canadian Broadcasting Company documentary on the Kennedy assassination includes taped remarks by RFK speaking very derisively of CIA covert operations specialist William Harvey. RFK termed Harvey's ideas "half-assed" and potentially very damaging to the United States. Recently declassified CIA documents about its use of hoodlums to penetrate the Cuban Revolution and assassinate its leaders demonstrate that the Agency didn't brief RFK. Gus Russo perpetuates the claim that RFK was convinced that Castro killed his brother, ignoring evidence that RFK contacted Jim Garrison (since RFK took seriously the notion of a domestic plot), and that he was concerned with the possibility that the CIA may have had involvement in the assassination.

(6) Nathaniel Weyl, *Encounters With Communism* (2003)

Toward the close of the Kennedy Administration, an American of non-Hispanic origin, called on me at our oceanfront place in Highland Beach, Florida. He wanted to interest me in a plan to send commandos secretly into Cuba to blow up the petroleum storage facilities in the Havana area. This seemed to me a senseless and criminal terrorist act.

Sabotaging oil facilities would deprive the Cuban people of a vital resource without necessarily weakening the dictatorial regime. Since we were not at war with Cuba, any incidental loss of life would constitute murder.

I told the mysterious person who approached me that this was not the sort of thing I do and that I was not interested.

Found at: <https://spartacus-educational.com/JFKmongoose.htm>

Item 8A Staff report

From Michael routh <qwakwak@icloud.com>

Date Sat 9/5/2026 2:57 PM

To City Council <citycouncil@cityofcapitola.gov>

Mayor and Council members,

At the 8/27/26 City Council meeting, Council member Jensen made a motion regarding rehabilitation of the Stockton Ave bridge. The motion, adopted unanimously, specifically directed staff to proceed with the polyester overlay as indicated in the CalTrans report.

What didn't the staff understand about the directive? Now they are offering up an alternative type overlay (Item 2 in the staff report), never discussed, never in the CalTrans recommendation. This is the #1 problem with the public works department and city manager. The directive was clear! FOLLOW IT ! PROCEED WITH THE POLYESTER OVERLAY AS DIRECTED! This is just one more example why we need a change in personnel at multiple levels.

Mick Routh

Recommended Action: 1) Receive an update regarding implementation of the City Council's August 27, 2026, direction, including the bridge preservation and project-development solicitation, continued community outreach, and the annual Soquel Creek inspection and coordination; and 2) provide direction regarding whether staff should continue developing the Caltrans-recommended polyester concrete overlay and return with a revised funding request, or pursue a methacrylate deck treatment as a lower-cost interim maintenance measure.

Sent from my iPhone

Gautho, Julia

From: Bob Hickman <bobster1263@yahoo.com>
Sent: Sunday, September 6, 2026 5:54 PM
To: City Clerk; City Council; Goldstein, Jamie; mtran@bwslaw.com; Woodmansee, Chloe
Subject: 9/10 city council meeting

Please add this to the City Council meeting Item 8a
 Before you approve Item 8a From the 8/27 city Council meeting minutes I need you to look at the following Information. Perhaps you should pull this from Consent and discuss it further.

Subject: Request to Pause Proposition 43 Advocacy and Clarify Authority for Staff Work

Dear City Manager, City Attorney, City Clerk, and Councilmembers,

In response to an email from Chloe Woodmansee on 9/2

Thank you for your email. As requested by two City Council members, staff is preparing a report and draft letter opposing Proposition 43, which will return to City Council at a future meeting for their review, discussion, and vote. We have double-checked with our City Attorney, who confirmed staff is permitted to spend time on this preliminary work, and the topic will return to City Council as a properly noticed agenda item.

Thank you for confirming that no official City position on Proposition 43 has yet been adopted and that the matter will return to the full Council at a properly noticed public meeting.

That confirmation raises an important procedural question:

On what authority did City staff begin preparing a staff report and draft opposition letter before the Council had publicly considered Proposition 43 or voted to direct that work?

The request appears to have arisen during Council comments, not through a noticed agenda item. No vote was taken. The City Manager did not publicly state at that time that staff was being directed to prepare an opposition letter, nor was there a public discussion establishing the scope, priority, or expenditure of City resources for that work.

Capitola's own Council policies contemplate that requests for staff work are made through the City Manager and caution individual Councilmembers against influencing staff workloads and priorities without appropriate Council authorization. I therefore respectfully request that the staff report identify the precise authority under which this work began, including any City Manager authorization given after the meeting.

I also ask the City to **pause preparation or distribution of advocacy materials** and instead provide the Council with a neutral report giving equal and meaningful consideration to:

1. **Support Proposition 43**
2. **Oppose Proposition 43**
3. **Take no official City position**

That approach is especially appropriate given the additional METRO context now in the public record.

METRO's November 2025 committee records show the agency itself discussing election procedures and **"conducting a citizens initiative in parallel"** with a Board-sponsored tax option. Friends of Santa Cruz METRO subsequently organized as a ballot-measure committee, with METRO Chair Manu Koenig identified as a principal officer. METRO Vice Chair Melinda Orbach has publicly promoted the initiative, including bringing petitions to a Capitola Council meeting and encouraging residents to sign them.

METRO then sponsored and supported **AB 1919**, legislation specifically addressing the authority and election procedures necessary for a qualified voter initiative to impose a METRO transactions-and-use tax. That history creates a legitimate public question about the relationship between METRO's governmental activity and the private citizen-initiative campaign.

Proposition 43 directly affects the voter-threshold distinction central to that strategy: voter-proposed local special taxes can currently pass by majority vote, while government-proposed special taxes generally require two-thirds approval. Proposition 43 would require two-thirds approval for voter-proposed local special taxes beginning in 2027.

Councilmember Orbach subsequently asked Capitola to oppose Proposition 43 specifically because of its effect on the METRO initiative.

I am not asserting in this correspondence that these overlapping activities establish a legal violation. I am saying that **Capitola should not begin from a predetermined advocacy position before the full Council and public have examined those facts.**

There is also an important legal distinction between preparing factual information for Council consideration and using public resources for campaign advocacy. The FPPC explains that government-funded communications can become campaign activity when they expressly advocate an election result or, considering their style, tenor, timing, and context, unambiguously urge a particular outcome. It also specifically identifies staff salaries, research, consultants, and production costs as potentially relevant public expenditures.

The FPPC further states that public entities may provide impartial information, but public money used for communications intended to persuade voters can create campaign-reporting obligations, while the underlying prohibition on publicly funded express advocacy is enforced under laws outside the Political Reform Act.

Accordingly, before further City resources are committed, please have the forthcoming staff report publicly address:

1. **Who authorized the Proposition 43 work, when, and under what Council policy or City Manager authority;**
2. Whether staff was directed to prepare neutral information or specifically instructed to draft an opposition letter;
3. Why an opposition draft was initiated before the Council considered support, opposition, and neutrality;

4. What staff, City Attorney, consultant, and other City resources have already been expended;
5. The specific and independent **City of Capitola public purpose** served by taking a position on Proposition 43;
6. The relationship, if any, between Capitola's proposed position and the METRO citizen initiative;
7. The relevant overlapping roles of Councilmember Orbach as Capitola Councilmember, Capitola's METRO representative, METRO Vice Chair, and public supporter of the initiative;
8. The safeguards being applied under **Stanson, Vargas, FPPC Regulation 18420.1, Government Code section 8314, and other applicable law**;
9. Whether any City-funded communication would be limited to communicating a duly adopted governmental position rather than attempting to persuade voters; and
10. Whether the City Attorney has evaluated any disclosure, recusal, common-law conflict, or other participation issues arising from these overlapping roles.

Until those questions are answered publicly, I respectfully request that the City **not issue, publish, distribute, or otherwise disseminate any Proposition 43 advocacy communication.**

The full Council should first receive a neutral record, hear from the public, and decide whether Capitola should support Proposition 43, oppose it, or remain neutral.

This is not an attempt to prevent the Council from exercising its lawful authority. It is a request that Capitola's institutional voice and public resources be used only after a transparent, properly authorized public process.

Please include this correspondence and the previously provided FPPC filings in the public record for the forthcoming Proposition 43 agenda item.

Thank you,

Bob Hickman Capitola Resident

Gautho, Julia

From: Kevin Maguire <kmaguire831@gmail.com>
Sent: Tuesday, September 8, 2026 4:27 PM
To: City Clerk; City Council; mtran@bwsllaw.com; Goldstein, Jamie
Subject: 9/10/2026 Agenda Item 8A - Consent Items - Council Minutes / Request for Full Public Review on Proposition 43 Position

Dear Mayor Morgan, Councilmembers, City Manager Goldstein, and City Attorney,

I am writing regarding Councilmember Orbach's request that the City of Capitola formally oppose Proposition 43.

I respectfully ask that this matter not be handled as routine Consent business and that Capitola take no position unless and until the Council holds a dedicated public discussion, receives a balanced staff analysis, and identifies a specific City of Capitola interest requiring an official position.

An official City position on a statewide constitutional amendment is a significant policy decision. It deserves more than a proposed opposition letter prepared before the Council has publicly considered the alternatives.

Capitola has precedent for taking a more careful approach. In 2016, after questions arose concerning Propositions 65 and 67, the Council directed staff to return with a dedicated agenda item. Staff then prepared a report explaining both measures and presenting arguments made by supporters and opponents before asking the Council for direction.

Capitola also has its own history with the two-thirds requirement for special taxes.

In 2018, Capitola voters considered Measure J, a special transient-occupancy tax. Because it was a special tax, it required two-thirds voter approval. Capitola voters approved it with **75.34% voting Yes — 3,642 Yes to 1,192 No.**

That history is directly relevant to the policy question before the Council. Proposition 43 would not generally change the rules for ordinary citizen initiatives such as municipal-code amendments. According to the State's official analysis, it specifically concerns **new, increased, or extended local special taxes proposed by voters**. Those currently can qualify for majority approval; Proposition 43 would require two-thirds beginning January 1, 2027.

In other words, before Capitola officially opposes Proposition 43, I believe the Council should publicly address a basic question:

Why should Capitola oppose requiring the same two-thirds level of voter support for voter-proposed special taxes that Capitola's own 2018 special tax was required to obtain — and successfully obtained with 75.34% support?

There are arguments on both sides. The State's official voter guide describes the competing positions. Some supporters argue that special taxes should require broad voter agreement regardless of who places them on the ballot, while opponents argue that requiring two-thirds allows a minority of voters to prevent a tax supported by a majority.

Those competing policy arguments should be presented to the Council and public rather than having the City begin with a predetermined opposition position.

I am also concerned about process. Staff has indicated that a report and **draft opposition letter** are already being prepared even though the full Council has not yet considered whether Capitola should support Proposition 43, oppose it, or take no position.

I am not suggesting that staff necessarily lacked authority to perform preliminary work. I am asking that the process and expenditure of City resources be transparent.

Before any Council action, I respectfully request a dedicated regular-agenda item that:

- fairly explains Proposition 43 and current law;
- presents the principal arguments **for and against** the measure;
- presents **no City position** as a legitimate alternative;
- includes Capitola's own experience with Measure J and the two-thirds threshold;
- identifies the specific fiscal or governmental effect Proposition 43 would have on the **City of Capitola itself**;
- explains what staff and City Attorney resources have already been used;
- identifies the authority under which an opposition letter was prepared before Council action; and
- provides sufficient time for residents to review the report and proposed letter before the Council votes.
- Provide costs to General Funds or whatever City's costs for these requests, or costs for staff, attorney, etc cost to the City for preparing and supporting a Yes or No on any propositions, and a template for future requests.

If the City cannot identify a compelling Capitola-specific reason to intervene in this statewide ballot campaign, **remaining neutral is a legitimate option and should be presented as such.**

Please place this matter on the regular agenda rather than Consent and allow the Council and public to consider **support, opposition, and neutrality** through the same kind of transparent process Capitola has used when evaluating statewide propositions in the past.

Thank you for your consideration,

Best,

Kevin Maguire

Capitola Citizen since 74'

Gautho, Julia

From: Kevin Maguire <kmaguire831@gmail.com>
Sent: Wednesday, September 9, 2026 3:59 PM
To: Gautho, Julia
Subject: 9/10 Agenda questions / issues...

Hi Julia,

I noticed a few apparent corrections in the September 10 agenda packet:

Item 8A – September 3 Special Meeting Minutes: The roll call lists Councilmember Orbach as both present and absent. The subsequent vote lists her as absent, so it appears her name should be removed from the “in attendance” portion.

Item 8B – Elections Code §21130(f) Report: The explanation regarding the West Capitola split states that it was impossible to unite “West Capitola, the Extended Jewel Box, the Tool Box and West Capitola” in one district. West Capitola is listed twice. Please confirm the intended neighborhood and correct the report before it is formally issued and posted.

Item 9E – FY 2025-26 Revenue and Expenditure Update: The report states that General Fund revenues were approximately \$591,000 above budget and revenues exceeded expenditures by approximately \$486,000. The conclusion appears to instead state that revenues exceeded the adopted budget by approximately \$486,000. Please confirm whether that should read \$591,000, with \$486,000 representing the operating surplus.

Thank you,
Kevin



CITY MANAGER DEPT.

Memo

To: City Council
From: Julia Gautho, City Clerk
Date: September 10, 2026
Re: Item 8A – Approval of the September 3, 2026, Special Meeting Minutes

Mayor and City Council,

Staff has made two corrections to the September 3, 2026, Special Meeting Minutes for your consideration before approval:

1. Correction to the roll call – Council Member Orbach was not present.
2. Correction to the speaker list for Item 3A –Ms. Pruitt was originally listed as a public speaker, but staff invited her to provide comments on the item, so this has been clarified in the meeting minutes.

City of Capitola

Special City Council Meeting Minutes

Thursday, September 03, 2026 – 4:00 PM



City Council Chambers

420 Capitola Avenue, Capitola, CA 95010

Mayor: Margaux Morgan

Vice Mayor: Gerry Jensen

Council Members: Joe Clarke, Melinda Orbach, Susan Westman

Special Meeting of the Capitola City Council – 4 PM

1. Roll Call

The meeting was called to order at 4:00 PM. In attendance: Council Members Clarke, Westman, Vice Mayor Jensen, and Mayor Morgan. Absent: Council Member Orbach.

2. Additional Materials

- A. *Item 3A – Two emails received after publication of the agenda packet.*
- B. *Item 4 – One piece of correspondence received after publication of the agenda packet.*

3. General Government

- A. Chapter 8.40: Capitola Municipal Code

Recommended Action: 1) Adopt an urgency ordinance amending Chapter 8.40 of the Capitola Municipal Code to remove the expiration language in Section 8.40.150(G), so the City's safe drug and sharps disposal requirements remain in effect; and 2) introduce for first reading, waiving further reading, an ordinance amending Chapter 8.40 of the Capitola Municipal Code to remove the expiration language in Section 8.40.150(G).

Public Works Director Kahn presented the staff report. Staff invited Darcy Pruitt, staff member from Santa Cruz County, to speak about the item.

Public Comment: None

The Council provided positive feedback on the City's existing safe disposal program for medications and sharps containers.

Motion to adopt Urgency Ordinance No. 1077 and introduce Ordinance No. 1078: Council Member Westman

Second: Council Member Clarke

Voting Yea: Council Members Clarke, Westman, Vice Mayor Jensen, Mayor Morgan

Absent: Council Member Orbach

4. Oral Communications by Members of the Public – None

5. Adjournment

The meeting adjourned at 4:10 PM. The next regularly scheduled City Council meeting is on September 10, 2026, at 6:00 PM.

Margaux Morgan, Mayor

ATTEST:

Julia Gautho, City Clerk

Gautho, Julia

From: Kevin Maguire <kmaguire831@gmail.com>
Sent: Wednesday, September 9, 2026 3:59 PM
To: Gautho, Julia
Subject: 9/10 Agenda questions / issues...

Hi Julia,

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Item 8A – September 3 Special Meeting Minutes: The roll call lists Councilmember Orbach as both present and absent. The subsequent vote lists her as absent, so it appears her name should be removed from the “in attendance” portion.

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Item 9E – FY 2025-26 Revenue and Expenditure Update: The report states that General Fund revenues were approximately \$591,000 above budget and revenues exceeded expenditures by approximately \$486,000. The conclusion appears to instead state that revenues exceeded the adopted budget by approximately \$486,000. Please confirm whether that should read \$591,000, with \$486,000 representing the operating surplus.

Thank you,
Kevin



CITY MANAGER DEPT.

Memo

To: City Council
From: Julia Gautho, City Clerk
Date: September 10, 2026
Re: Item 8B – Acceptance of the Elections Code Section 21130(f) Report

Mayor and City Council,

Staff has made a correction to the Elections Code Section 21130(f) report included as Attachment 1 to Item 8B. The report originally stated: "The West Capitola neighborhood is divided because within the required population counts it is impossible to unite West Capitola, the Extended Jewel Box, the Tool Box and West Capitola in one district."

Staff has amended the report to state the following: "The West Capitola neighborhood is divided because within the required population counts it is impossible to unite the Jewel Box, the Extended Jewel Box, the Tool Box and West Capitola in one district."

City of Capitola Elections Code Section 21130f Disclosure Report

Elections Code Section 21130(f) language:

f)... the districting body shall issue a report that explains the basis on which the districting body made its decisions in achieving compliance with the requirements and criteria described in this section, including, as to each neighborhood, community of interest, city, or census designated place that was split into two or more districts, the reason for that split.

Disclosure:

National Demographics Corporation (NDC), on behalf of the City of Capitola, has analyzed the City's adopted map and prepared the following analysis of the map's compliance with the criteria of Elections Code Section 21130:

21130(a): Population Equality

The ideal population in a 4-district map for Capitola is 2,487. In the adopted map, the largest district has a population of 2,590 (4.14% over the ideal) and the smallest district has a population of 2,447 (1.61% under the target population). At a total difference of 5.75% between the largest and smallest districts, the districts in the adopted map are well within the "presumed constitutional" 10% range of state and federal law, and the deviations all exist to achieve compliance with Federal and/or State criteria.

21130(b): Voting Rights Act reports

The City fully complied with the reporting requirements of Section 21130(b). That report is posted to the City's districting project website.

21130(c)(1): Contiguity

All of the districts are contiguous.

21130(c)(2): Minimize divisions of each "local neighborhood or local communities of interest"

Public comment and review of the city's geography identified local neighborhoods or local communities of interest, each was mapped, and the map was shared publicly during the districting process.

1. The Jewel Box neighborhood is entirely in one district.
2. The Extended Jewel Box neighborhood is entirely in one district.
3. The Tool Box neighborhood is entirely in one district.
4. The Village neighborhood is entirely in one district.
5. The Depot Hill neighborhood is entirely in one district.
6. The Cliffwood Heights neighborhood is entirely in one district.
7. The Upper Village neighborhood is entirely in one district.
8. The North River neighborhood is entirely in one district.
9. The Riverview Terrace neighborhood is entirely in one district.
10. The Castle Estates neighborhood is entirely in one district.
11. Four of the other five mobile home parks are individually entirely in one district.
12. The West Capitola neighborhood is divided because within the required population counts it is impossible to unite the Jewel Box, the Extended Jewel Box, the Tool Box and West Capitola in one district.
13. The Turner Lane mobile home park has its western edge divided into another district because within the required population counts it is impossible to unite Turner Lane, North River, and Cliffwood Heights in a single district, and because adding that western edge to District 4 would divide the residential area along Capitola Terrace from the rest of its community across Capitola Avenue.

21130(c)(3) does not apply to a city

21130(c)(4): Follow easily identifiable boundaries

“To the maximum extent practicable” the boundaries of the adopted districts follow easily-recognized roads: Capitola Road; Soquel Wharf Road; the railroad tracks; Bay Avenue; and the border of Noble Gulch Park. The rest of the boundary between districts 3 and 4 follows Census Block boundaries and secondary roads due to population balancing requirements and the goal of minimizing the division of mobile home parks. The west end of the border between districts 1 and 2 crosses Capitola Road due to population balancing requirements. The area included in district 2 across Capitola Road is "The Landing at Capitola" apartment complex, which is a stand-alone neighborhood that is separated from district 1 by unincorporated territory not in the City.

21130(c)(5): Compactness

No population is “bypassed in favor of more distant populations” in any district.

21130(d): No purpose of favoring or discriminating against an incumbent, political candidate, or political party

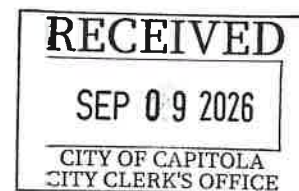
The map does not favor or discriminate against any incumbent, political candidate, or political party.

21130(e): Do not prioritize any criterion over the criteria listed in Section (c) of the statute

The adopted map does not prioritize any criterion over the criteria listed in Section (c) of the statute.

September 2, 2026

Jamie Goldstein
City Manager
City of Capitola
420 Capitola Avenue
Capitola, CA 95010
jgoldstein@cityofcapitola.gov



Re: Safe Drug and Sharps Disposal Ordinance Sunset

City of Capitola:

The City of Capitola Safe Drug and Sharps Disposal Ordinance No. 1006, codified as Chapter 8.40 of the City of Capitola Municipal Code ("Ordinance") sunsets "ten years following enactment" on September 8, 2026. See Ordinance § 8.40.150(G). California's statewide pharmaceutical and home-generated sharps and waste program under Senate Bill 212 (2018) ("State Program") preempts the amended versions of the Ordinance. MED-Project LLC ("MED-Project") is contacting the City of Capitola ("City") to inform it that the State Program will expressly preempt its efforts to adopt an urgency ordinance and regular ordinance amending Chapter 8.40 of the Capitola Municipal Code and to reassure the City of uninterrupted access to convenient drug and sharps collection and disposal services.

California's State Program preempts any local stewardship program "with an effective date on or after April 18, 2018." Cal. Pub. Res. Code § 42036.2(b)(emphasis added). The City's efforts to enact an urgency ordinance, and address the sunset date, will result in an immediate effective date of September 3, 2026. Cal. Gov. Code § 36937(b). This enactment will result in express preemption, triggering the requirements of the State Program. A regular ordinance would be likewise preempted.

The Ordinance's sunset would trigger the same requirements. The State Program requires that it be expanded into the City upon the Ordinance's September 8, 2026 sunset. See Cal. Pub. Res. Code §§ 42036.2(a) and 42032.2(e).

The City's explanation for use of the urgency ordinance measure is the "lapse of Chapter 8.40 *could* reduce safe disposal options for medications and sharps in the community." (emphasis added). Not so. MED-Project USA, the separate entity that operates drug and sharps collection and disposal programs, is required by the State Program to transition its collection and disposal services into the City upon the State Program's preemption of the Ordinance.

This transition will also alleviate Ordinance implementation issues. This includes, for example, a late plan approval from the City and inequitable treatment of the program operators.

Adopting an “urgency ordinance” to address the expiring local stewardship program is unsupportable, particularly given MED-Project USA’s success in the State Program. The City’s inevitable transition to the State Program does not require “immediate preservation of the public peace, health or safety,” which is necessary for the City to use an urgency ordinance measure. Cal. Gov’t Code § 36937(b); *see also* 216 Sutter Bay Assocs. v. County of Sutter, 58 Cal. App. 4th 860, 868 (1997).

As explained above, California SB 212 provides for the expansion of the State Program into the City when the Ordinance expires, so residents will continue to have access to convenient mandated drug and sharps collection services. The suggestion that implementation of the State Program—which operates almost everywhere else in California—would necessitate City action to address emergency circumstances is nonsensical. The sunset is a core feature of the temporary Ordinance. The City has known this date would come for a decade and fails to demonstrate any need for an “urgency ordinance,” and attempting to pass a regular ordinance by urgency ordinance “bypass[es] more formal notice and hearing requirements.” *Sutter*, 58 Cal. App. 4th at 873.

As discussed above, the State Program’s express preemption will be triggered if the City passes an urgency ordinance or regular ordinance amending Chapter 8.40 of the Capitola Municipal Code instead of allowing the Ordinance to sunset on September 8, 2026. MED-Project reserves all its rights regarding the City’s actions and the Ordinance.

Sincerely Yours,



Ryan Murray
Lead Director, Legal & Compliance
MED-Project USA

cc:
Chloe Woodmansee
Assistant to the City Manager
City of Capitola
420 Capitola Avenue
Capitola, CA 95010
cwoodmansee@cityofcapitola.gov

MED-Project®
Medication Education & Disposal

MED-Project LLC
4096 Piedmont Avenue | Unit 174 | Oakland, CA 94611
Phone: (833) 633-7765 | Fax: (866) 633-1812
cityofcapitola@med-project.org

Capitola City Council
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420 Capitola Avenue
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citycouncil@cityofcapitola.gov
(via email and certified mail #9589 0710 5270 2548 8140 54)

Marc Tran
City Attorney, City of Capitola
Burke, Williams & Sorensen, LLP
420 Capitola Avenue
Capitola, CA 95010
mtran@bwslaw.com
(via email and certified mail #9589 0710 5270 2548 8140 61)



PLEASE CONFIRM RECEIPT: Beveridge & Diamond Letter re September 10, 2026 Meeting Agenda Item 8.E

From Sydney K. Prall <SPrall@bdlaw.com>

Date Wed 9/9/2026 3:30 PM

To City Council <citycouncil@cityofcapitola.gov>

Cc Goldstein, Jamie <jgoldstein@cityofcapitola.gov>; Woodmansee, Chloe <cwoodmansee@cityofcapitola.gov>; Kahn, Jessica <jkahn@cityofcapitola.gov>; mtran@bwsllaw.com <mtran@bwsllaw.com>; Jesse C. Miles <JMiles@bdlaw.com>; R. Morgan Gilhuly <MGilhuly@bdlaw.com>

 1 attachment (108 KB)

2026-09-09 - Beveridge & Diamond Letter re Drugs and Sharps Disposal Ordinance.pdf;

PLEASE CONFIRM RECEIPT

Dear City Council:

Please consider the attached letter regarding the City Council's September 10, 2026 Meeting Agenda Item 8.E: Chapter 8.40: Capitola Municipal Code.

I am sending this email on behalf of Jesse C. Miles of Beveridge & Diamond, P.C.

Thank you,

Sydney K. Prall

Legal Administrative Assistant



T: [+1.206.620.3065](tel:+12066203065) | SPrall@bdlaw.com

600 University Street, Suite 1601, Seattle, WA 98101

[LinkedIn](#)



September 9, 2026

VIA EMAIL

Capitola City Council
City of Capitola
420 Capitola Avenue
Capitola, CA 95010
citycouncil@cityofcapitola.gov

Re: September 10, 2026 Agenda Item 8.E - Chapter 8.40; Urgency Ordinance No. 1077 and Proposed Ordinance No. 1078 (re City's Safe Drug and Sharps Disposal Ordinance)

Members of the City Council:

Beveridge & Diamond PC represents MED-Project, LLC (MED-Project). We submit this letter for the Capitola City Council's (Council) consideration at its September 10, 2026 meeting concerning Agenda Item 8.E. The City of Capitola's (City) Safe Drug and Sharps Disposal Ordinance No. 1006, codified at Chapter 8.40 of the Capitola Municipal Code (2016 Ordinance), sunsetted on September 8, 2026.

Five days before that sunset, the Council convened a special meeting and adopted Ordinance No. 1077, an urgency ordinance deleting Section 8.40.150(G), the sunset provision, and purporting to take effect immediately (Urgency Ordinance). The Urgency Ordinance is unlawful. The City had ten years' notice of the sunset written into its own law, and then invoked an extraordinary procedure five days before the sunset took effect. The record does not establish facts showing that immediate enactment was required to preserve public health or safety. Furthermore, even if the Urgency Ordinance was lawful, its September 3, 2026 effective date makes the local program subject to express preemption under SB 212.¹

The Council also introduced Ordinance No. 1078, a regular ordinance scheduled for consideration and possible adoption on September 10, 2026 (Proposed Ordinance). That ordinance cannot cure the problem. First, the Urgency Ordinance did not lawfully remove the September 8 sunset. Thus, the 2016 Ordinance expired before the Proposed Ordinance could take effect. Second, because the Proposed Ordinance has a 2026 effective date, it is also preempted by state law.

For these reasons, the City should reject the void Proposed Ordinance, rescind the void Urgency Ordinance, and acknowledge the forthcoming transition to the state drug and sharps take-back program.

The Council unlawfully adopted the Urgency Ordinance.

The Council circumvented California's procedural safeguards by passing the Urgency Ordinance without justification. A regular city ordinance generally cannot be passed within five days of introduction or at a special meeting, and it ordinarily does not take effect until 30 days after final passage. Those safeguards create time for notice, review, deliberation, and public participation.

The urgency exception is not a shortcut around that process. Government Code section 36937(b) provides a narrow urgency ordinance exception that requires an ordinance to be

¹ City of Capitola, Special City Council Meeting Minutes, Sept. 3, 2026 (recording adoption of Urgency Ordinance No. 1077 and introduction of Ordinance No. 1078); City of Capitola Urgency Ordinance No. 1077, § 6 (Sept. 3, 2026) (providing that the ordinance would take effect immediately).

necessary for the immediate preservation of the public peace, health, or safety, to declare the facts constituting the urgency, and to receive a four-fifths vote. Urgency ordinances exist for situations in which action truly must be taken immediately, not to enact a regular ordinance in the guise of an urgency measure.²

The Council cannot invoke the statutory exception merely by labeling Ordinance No. 1077 “urgent.” The declaration is not conclusive. The record itself must establish the urgency required by section 36937(b).³

The Urgency Ordinance’s own explanation does not satisfy that requirement. It states that an ordinance enacted through the ordinary process would not take effect before the known sunset. But that timing problem, created by the City’s own inaction, does not establish a need for immediate action to preserve public peace, health or safety. The City’s own delay cannot supply the facts required for immediate effectiveness. The sunset was part of the 2016 Ordinance from the day the Council adopted it. The City’s agenda report reinforces that conclusion. It is our understanding that the City had not taken steps to attempt to address the sunset date until Santa Cruz County staff contacted City staff at the end of August 2026 and encouraged the City to act. The Council then called a special meeting on September 3, only five days before the sunset.⁴ Nothing in that sequence of events reflects a newly arising threat requiring emergency legislation.

Nor does the record establish an actual service emergency. By September 3, 2026, MED-Project had advised the City that MED-Project USA (MPUSA), a separate entity that operates the statewide program, would implement the statewide program within the City without interruption. The City’s materials identified no reason to suggest that MPUSA (or any other program operator) would not maintain a drug and sharps take-back program for residents.⁵ The staff analysis provided in the written agenda packet as well as during the September 3, 2026 special meeting failed to accurately represent state program transition plans.

The Urgency Ordinance’s passage compounded these defects. The City did not publish the September 3, 2026 Special Meeting agenda until approximately 2:25 pm on Wednesday, September 2, 2026. The City’s agenda warned that materials submitted after 5:00 p.m. Wednesday might not reach Councilmembers, or be read by them, before consideration.

MED-Project transmitted its September 2 letter at approximately 7:00 p.m. that Wednesday. The City then revised the special meeting materials at approximately 3:00 p.m. on Thursday for a 4:00 p.m. meeting. The official minutes show that the entire special meeting lasted ten minutes. Staff presented the item, the only listed public commenter was a Santa Cruz County representative (apparently allowed to comment remotely), and the Council adopted the Urgency

² Cal. Gov. Code §§ 36934, 36937; *216 Sutter Bay Assocs. v. County of Sutter*, 58 Cal. App. 4th 860, 873-74 (1997) (stating, under parallel county urgency provisions, that urgency ordinances contemplate situations where “action must be taken immediately” and that a legislative body may not enact “a regular ordinance in the guise of an urgency ordinance”).

³ Cal. Gov. Code § 36937(b); *In re Hoffman*, 155 Cal. 114, 120 (1909) (stating that “the mere declaration of the council” that an ordinance immediately preserves public health “is neither conclusive nor yet sufficient”).

⁴ City of Capitola, Agenda Report, Chapter 8.40: Capitola Municipal Code, Sept. 3, 2026 (stating that, at the end of August 2026, Santa Cruz County staff contacted City staff regarding expiring local ordinances and “encouraged the City to take action” to maintain the local program).

⁵ Note that the 2016 Ordinance makes sharps kiosks optional, not mandatory: retailers or providers can provide mail-back systems instead. See 2016 Ordinance Section 8.40.080(B)(1).

Ordinance 4-0 with one Councilmember absent. The official minutes do not reflect any consideration or discussion of MED-Project's service continuity assurance before the vote.⁶

The ordinary ordinance process exists precisely so that a legislative body does not make a permanent policy decision through an emergency exception without public and Council review and input. Here, the City published the Urgency Ordinance agenda with a little over *two hours'* notice of the deadline to receive materials and provided *one hour* for the Council to review those materials. Considering that the sunset provision had existed for nearly a decade before the City rushed a meeting to make the local program indefinite, it is clear this is not the type of fact-supported urgency ordinance section 36937 authorizes.

SB 212 independently preempts the local program purportedly continued by the Urgency Ordinance.

Senate Bill 212, Solid Waste: Pharmaceutical and Sharps Waste Stewardship (SB 212), preempts the local stewardship program purportedly continued by the Urgency Ordinance. Its express-preemption rule is direct: the statewide chapter "shall preempt a local stewardship program for drugs or sharps enacted by an ordinance or ordinances with an effective date on or after April 18, 2018." A conflicting local ordinance is therefore preempted and void.⁷

The Urgency Ordinance purported to take effect immediately when adopted on September 3, 2026. That is more than eight years after SB 212's April 18, 2018 cutoff. The City cannot avoid a date-based preemption rule by characterizing a 2026 ordinance as merely preserving the 2016 program. The 2016 Ordinance made the program temporary. The Urgency Ordinance removes the very provision that ends it and supplies the legal authority for a local program that will continue indefinitely. Its 2026 effective date therefore falls squarely within SB 212's preemption provision.⁸

SB 212, subsection (c) does not save the City's action. It permits a qualifying pre-2018 local program to "continue in operation," but it does not override the local ordinance's own expiration date or exempt a later ordinance from subsection (b). Nor does subsection (a) regarding an "ordinance that took effect before April 18, 2018." After the 2016 Ordinance's sunset, continued local operation necessarily depends on the legal authority supplied by the 2026 enactment. The City cannot use subsections (c) or (a) to convert an expressly temporary grandfathered ordinance into an indefinite one while disregarding the Legislature's effective-date cutoff.

The Proposed Ordinance cannot cure these defects.

The September 10 Proposed Ordinance will not lawfully extend the City's program. SB 212 expressly preempts the Proposed Ordinance because its effective date is more than eight years following SB 212's April 18, 2018 cutoff. Labeling the Proposed Ordinance an amendment does not change what it does: it attempts to give indefinite legal force to a program whose original legal authority was expressly temporary.⁹ The extension of an expressly temporary ordinance is

⁶ City of Capitola, Revised Special City Council Meeting Agenda, Sept. 3, 2026 (revised at approximately 3:00 p.m. for a 4:00 p.m. special meeting); City of Capitola, Special City Council Meeting Minutes, Sept. 3, 2026 (recording a 4:00 p.m. call to order, staff presentation, public comment by Darcy Pruitt of Santa Cruz County, adoption of Urgency Ordinance No. 1077 by four affirmative votes with Council Member Orbach absent, and adjournment at 4:10 p.m.).

⁷ Senate Bill 212, Solid waste: pharmaceutical and sharps waste stewardship, 2018 Cal. Stat. ch. 1004, codified at Cal. Pub. Res. Code §§ 42030-42036.4; Cal. Pub. Res. Code § 42036.2(b); *O'Connell v. City of Stockton*, 41 Cal. 4th 1061, 1067 (2007) (stating, "Any conflicting ordinance is preempted by state law and thus void.").

⁸ City of Capitola Urgency Ordinance No. 1077, § 6 (Sept. 3, 2026); Cal. Gov. Code § 36937(b); Cal. Pub. Res. Code § 42036.2(b).

⁹ City of Capitola Proposed Ordinance No. 1078, § 5 (providing that the ordinance takes effect 30 days after adoption); Cal. Gov. Code § 36937 (providing that ordinances ordinarily take effect 30 days after final passage).

a new governmental enactment. Whether characterized as an amendment, revival, or reenactment, the Council cannot use a September 2026 enactment to avoid SB 212's express effective-date rule.¹⁰

Conclusion

The City knew the 2016 Ordinance would sunset since its adoption. In a futile attempt to revive it, the City relied on a last-minute urgency procedure with a record unsupported by a genuine service emergency. The resulting Urgency Ordinance is therefore invalid. The Urgency Ordinance also carries a 2026 effective date that SB 212 expressly preempts. The Proposed Ordinance likewise cannot extend the City's program. SB 212 expressly preempts it.

Accordingly, the City should reject the Proposed Ordinance, rescind the Urgency Ordinance, and recognize the City's transition to the state program.

Sincerely,

BEVERIDGE & DIAMOND PC

/s/ R. Morgan Gilhuly

R. Morgan Gilhuly

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¹⁰ *Arcadia Dev. Co. v. City of Morgan Hill*, 169 Cal. App. 4th 253, 264-65 (2008) (holding that extension of an expressly temporary restriction was a new governmental decision that depended on then-existing circumstances); Cal. Pub. Res. Code § 42036.2(b).

Jessica Kahn
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PLEASE CONFIRM RECEIPT: Re: September 10, 2026 Agenda Item 8.E - Chapter 8.40; Urgency Ordinance No. 1077 and Proposed Ordinance No. 1078

From Victoria Travis <victoria@med-project.org>

Date Wed 9/9/2026 3:13 PM

To City Council <citycouncil@cityofcapitola.gov>

Cc Goldstein, Jamie <jgoldstein@cityofcapitola.gov>; Woodmansee, Chloe <cwoodmansee@cityofcapitola.gov>; Kahn, Jessica <jkahn@cityofcapitola.gov>; mtran@bwslaw.com <mtran@bwslaw.com>; Ryan Murray <rmurray@med-project.org>; Victoria Travis <victoria@med-project.org>

1 attachment (155 KB)

MED-Project Letter to City of Capitola City Council re Expanding of SB212 Program 20260909.pdf;

PLEASE CONFIRM RECEIPT OF THIS EMAIL.

Members of the Capitola City Council:

MED-Project USA appreciates the opportunity to submit this letter for the Capitola City Council's consideration at its September 10, 2026 meeting concerning Agenda Item 8.E.

Thank you,

Victoria

Dr. Victoria Travis, PharmD, MS, MBA

National Program Director

MED-Project®

Medication Education & Disposal

(main) 833/MED-PROJECT or 833/633-7765 **(direct)** 202/892-6500 **(fax)** 866/633-1812

(e-mail) victoria@med-project.org | www.med-project.org

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September 9, 2026

SENT VIA ELECTRONIC MAIL

Capitola City Council
City of Capitola
420 Capitola Avenue
Capitola, CA 95010

citycouncil@cityofcapitola.gov

Re: September 10, 2026 Agenda Item 8.E - Chapter 8.40; Urgency Ordinance No. 1077 and Proposed Ordinance No. 1078 (re City's Safe Drug and Sharps Disposal Ordinance)

Members of the City Council:

MED-Project USA ("MED-Project") appreciates the opportunity to submit this letter for the Capitola City Council's (Council) consideration at its September 10, 2026 meeting concerning Agenda Item 8.E. Following its review of the Council's September 3, 2026 Special City Council Meeting and the associated Agenda Packet, MED-Project seeks to correct and clarify certain information others presented to the Council concerning the sunset of the City of Capitola Safe Drug and Sharps Disposal Ordinance, Capitola Municipal Code Chapter 8.40 ("Ordinance"). Specifically, MED-Project provides the following information regarding the transition of pharmaceutical and home-generated sharps waste stewardship services provided under the Ordinance, to MED-Project's statewide stewardship programs established pursuant to California Senate Bill 212 ("SB 212").

MED-Project wants to clarify for the Council that the sunset of the Ordinance will not result in the discontinuation of producer-funded pharmaceutical and home-generated sharps waste stewardship services in Capitola. Rather, following the sunset of the Ordinance, MED-Project will transition applicable services provided through the City program into MED-Project's approved statewide programs for Covered Drugs and Home-Generated Sharps Waste (collectively, the "State Programs"). For more information, see <https://calrecycle.ca.gov/epr/pharmasharps/>.

MED-Project LLC has been operating a stewardship program in Capitola pursuant to the Ordinance. Following the sunset of the Ordinance, California law and MED-Project's approved State Program stewardship plans provide a mechanism for transitioning the City from its local stewardship program to the State Programs.

Pursuant to California Public Resources Code sections 42032.2(e) and 42036.2, when a local jurisdiction repeals or sunsets its local stewardship program ordinance, MED-Project must expand its State Programs into that jurisdiction. MED-Project's CalRecycle approved State Program stewardship plans specifically provide for this transition and establish a period of up to 270 days following the effective date of the local ordinance repeal or sunset to complete expansion of the State Programs. MED-Project has real world experience in executing the transition from local programs to the State Program, in both Santa Cruz County and the City of Santa Cruz. MED-Project has successfully and seamlessly transitioned both jurisdictions to the

State Program without disruption to services for the safe and secure collection of unwanted medicine and home-generated sharps waste from California residents.

During this transition period, MED-Project will coordinate the transition of applicable existing services, assess implementation requirements, work with participating sites, implement the applicable State Program service model, and conduct education and outreach regarding the State Programs. MED-Project's objective is to provide for an orderly transition from the City program to the State Programs and to avoid unnecessary disruption for Capitola residents and participating locations.

Covered Drugs Program

For Covered Drugs, the transition should be largely familiar to Capitola residents because secure medication collection receptacles are also an important component of MED-Project's statewide SB 212 Covered Drugs Program. MED-Project has previously completed comparable transitions in the County of Santa Cruz and the City of Santa Cruz. In those jurisdictions, participating unwanted medicine collection sites transitioned into the State Program without interruption (a gap) in the collection service.

Under MED-Project's approved statewide Covered Drugs stewardship plan, MED-Project operates a network of "Authorized Collection Sites" (e.g., sites with drop boxes – see PRC Section 42030) where "Ultimate Users" (e.g., residents – see PRC Section 42030) can conveniently and safely dispose of Covered Drugs through secure collection receptacles. MED-Project also provides mail-back services and education and outreach regarding proper disposal options.

As part of the transition into the State Program, MED-Project intends to seamlessly transition eligible medication drop box sites currently participating in the Capitola program into the statewide Covered Drugs Program as Authorized Collection Sites. MED-Project will work directly with these participating sites to complete the operational and administrative steps necessary for the transition.

For residents, the practical effect is that medication collection opportunities currently available through participating medication drop box locations are intended to continue, and those locations will operate under MED-Project's statewide SB 212 Covered Drugs Program rather than under the Ordinance.

In addition to secure medication drop boxes, the State Program provides additional options for the safe disposal of Covered Drugs, including prepaid and pre-addressed mail-back services. Information regarding available disposal options and participating locations is provided through the MED-Project website and toll-free call center.

Home-Generated Sharps Waste Program

The transition of sharps services will involve a change in the method by which the State Program provides residents with safe disposal opportunities, and robust collection services will remain available without disruption for City residents.

Under the Capitola program, certain participating locations currently host sharps collection kiosks. Those sharps kiosks will be removed as the City program is transitioned to the statewide SB 212 Home-Generated Sharps Waste Program. The removal of those kiosks, however, will not result in termination of MED-Project's sharps disposal services in Capitola. Instead, the service model will transition to the statewide SB 212 sharps mail-back program.

Under MED-Project's Home-Generated Sharps Waste Stewardship Plan approved by CalRecycle, retail pharmacies and other retailers selling covered sharps products to Ultimate Users are Point of Sale Sites for purposes of the State Program. MED-Project supports these sites so that, upon the sale of a sharp, a resident can be provided a Sharps Mail-Back Package or have the distribution of a Sharps Mail-Back Package initiated on the resident's behalf.

Depending upon the service method used by the Point of Sale Site, a resident may receive a Sharps Mail-Back Package directly at the Point of Sale Site or the site may initiate an order for a package to be delivered to the resident's specified address. MED-Project's approved State Program provides online and telephone ordering mechanisms to support these services.

Sharps Mail-Back Packages include an appropriate sharps container and prepaid return packaging, together with instructions regarding proper use and return. This provides residents with a method to safely collect their home-generated sharps and return them for appropriate treatment and disposal at no cost to the resident.

Importantly, access to the State Program is not limited to the transaction at the pharmacy. Residents may also obtain information about Sharps Mail-Back Packages and request packages through MED-Project's website and toll-free call center. The State Program therefore provides multiple convenient pathways for Capitola residents to obtain sharps disposal services.

MED-Project will work with pharmacies and other applicable Point of Sale Sites in Capitola as part of the transition, including providing ordering system support, educational materials, signage and other resources necessary to implement the State Program service model.

The statewide Home-Generated Sharps Waste Stewardship Programs have demonstrated that the mail-back model provides a practical and widely used disposal option for California residents. In 2024 and 2025, the CalRecycle approved programs collectively distributed **over 518,000 sharps mail-back packages** and collected **over 920,000 pounds of home-generated sharps waste**. These statewide results provide a substantial operating record for the same service model that will be available to Capitola residents following the transition to the State Program.

Transition of Existing Capitola Services

MED-Project recognizes the City's interest in providing Capitola residents with convenient disposal options following the sunset of the Ordinance. Accordingly, MED-Project is approaching the transition as a change in the governing stewardship program and, for sharps, a change in collection method, not as an end to pharmaceutical and sharps stewardship services in the City.

In summary, MED-Project anticipates the following transition:

- **Medication Drop Boxes:** Eligible existing medication drop box locations in Capitola will transition to MED-Project's statewide SB 212 Covered Drugs Program as Authorized Collection Sites, subject to the requirements of the approved State Program.
- **Medication Mail-Back Services:** State Program mail-back services will provide an additional disposal option for eligible Covered Drugs.
- **Sharps Drop Boxes:** The two sharps drop boxes that operated under the City program will be removed as those services transition to the statewide Home-Generated Sharps Waste Program. It should be noted that these drop boxes were not required by the Ordinance and host sites could elect to discontinue sharps drop box services under the local program. Under the State Program, Capitola residents will have access to sharps mail-back services, including packages offered or initiated at points of sale of a covered product and available through MED-Project's website and call center.
- **Pharmacies and other applicable Point of Sale Sites:** The statewide sharps program will provide or initiate the distribution of Sharps Mail-Back Packages at the point of sale of In-Scope Purchases in accordance with the approved State Program.
- **Sharps Mail-Back Services:** Ultimate Users will also have access to information regarding Sharps Mail-Back Packages and may request packages through MED-Project's website and call center.
- **Local Household Hazardous Waste (HHW) Facilities:** The statewide sharps program provides transportation and removal services of collected household sharps at HHW facilities, or reimbursement for such services. HHW facilities are local destinations that communities often know and use, offering safe and accessible ways for residents to drop off household sharps.
- **Education and Outreach:** MED-Project will expand State Program education and outreach activities into Capitola, including information regarding available disposal options and how residents can access those services.
- **Ongoing Site and Program Support:** MED-Project will provide support to participating Authorized Collection Sites and Point of Sale Sites through its established program infrastructure, website, call center and Help Desk.

MED-Project's CalRecycle approved Covered Drugs and Home-Generated Sharps Waste Stewardship Plans specifically address the transition from local stewardship programs to the State Programs following the repeal or sunset of a local ordinance. The plans provide for MED-Project to transition applicable participating sites and services, assess implementation requirements, establish schedules for implementation and education and outreach, coordinate with participating sites, and provide the services required under the State Programs within 270 days of the local ordinance repeal or sunset.

These provisions were included in the approved State Program plans specifically to address jurisdictions such as Capitola that operated under local stewardship ordinances.

Accordingly, the expiration of Capitola's Ordinance does not create a gap in the statutory framework for pharmaceutical and home-generated sharps stewardship. SB 212 and MED-Project's approved statewide stewardship plans establish the framework for an orderly transition and continuation of stewardship services.

MED-Project has operated pharmaceutical and sharps stewardship services in Capitola for many years. We are committed to working directly with the City, participating pharmacies, and other affected sites, to support a clear and orderly transition.

MED-Project would welcome the opportunity to meet with City representatives to review the transition schedule, participating locations, changes in service methods, and education and outreach activities associated with the expansion of the State Programs into Capitola.

Please let us know if the City Council or City staff would like additional information regarding the transition.

Sincerely yours,



Dr. Victoria Travis, PharmD
National Program Director
MED-Project USA

CC:

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Gautho, Julia

From: Irina Butler - ppswg.org <ibutler@ppswg.org>
Sent: Thursday, September 10, 2026 4:50 PM
To: City Council
Subject: Capitola Safe Drug and Sharps Disposal Ordinance
Attachments: PPSWG Capitola letter - DRAFT 9.10.26.pdf

Good afternoon,
Please see the attached for your consideration.
Irina

PPSWG®
Pharmaceutical Product
Stewardship Work Group

Irina Butler

Executive Director

Pharmaceutical Product Stewardship Work Group

1800 M Street, NW, Suite 400 South | Washington, DC 20036

(e) ibutler@ppswg.org

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VIA ELECTRONIC MAIL

September 10, 2026

Capitola City Council
Capitola City Hall
420 Capitola Ave.
Capitola, CA 95010
Email: citycouncil@cityofcapitola.gov

Capitola City Councilors:

The Pharmaceutical Product Stewardship Work Group (“PPSWG”) had previously provided comments for the Capitola City Council’s Special Meeting on September 3, 2026, in order to express our concerns regarding the Council’s proposed adoption of an urgency ordinance, and adoption of a regular ordinance, with the intent of amending Chapter 8.40.150(G) of the Capitola Municipal Code to remove the existing expiration language from the Capitola Safe Drug and Sharps Disposal Ordinance of 2016 (the “Ordinance”). MED-Project LLC (“MED-Project”), which serves as the program operator designated by PPSWG’s members to implement and operate mandated takeback programs, has separately provided comments dated September 2, 2026 and September 9, 2026, as well as comments dated September 9, 2026 through its counsel, Beveridge & Diamond PC. Each of these letters addresses specific concerns with the Council’s contemplated course of action regarding the Ordinance, namely: that this course of action is predicated on misconceptions regarding the effect of the Ordinance sunseting and the transition of take-back services in Capitola to the California state-wide program under Senate Bill (SB) 212 (2018); that the Council has not provided a sufficient factual or legal basis for the adoption of the urgency ordinance; that any newly adopted ordinance attempting to extend the Capitola Safe Drug and Sharps Disposal Ordinance of 2016 would be expressly preempted by the provisions of SB 212; and that the Ordinance has, in fact, expired as of September 8, 2026.

We are providing this letter to support MED-Project’s comments and reiterate PPSWG’s concerns regarding item 8.E of the City Council’s September 10, 2026 meeting agenda, the adoption of Proposed Ordinance No. 1078 with the intent of removing the sunseting provisions from the Capitola Safe Drug and Sharps Disposal Ordinance of 2016. We urge the City Council to carefully consider those prior comment letters. The Council’s contemplated action would attempt to extend the requirements of the Ordinance in a factually unsupported and legally unsound manner. Contrary to the Council’s concerns, the sunseting of the Ordinance begins the orderly transition of services under the state-wide program pursuant to the requirements of SB 212, as described in detail in MED-Project’s comments of September 9, 2026.

We ask therefore that the City Council reject the adoption of Proposed Ordinance No. 1078, rescind the adoption of Urgency Ordinance No. 1077, and recognize the sunseting of the Ordinance and the transition of take-back services in Capitola under the SB 212 state-wide program.

We appreciate your consideration on this issue.

Thank you,

Irina S. Butler

Irina Butler,
Executive Director

Gautho, Julia

From: Kevin Maguire <kmaguire831@gmail.com>
Sent: Wednesday, September 9, 2026 10:40 AM
To: Margaux Morgan; Gerry Jensen; City Clerk; Clarke, Joe; Goldstein, Jamie; Melinda Orbach; Westman, Susan
Subject: Item 9B – Stockton Avenue Bridge: Determine Caltrans Funding Before Committing Local Funds

Subject: Item 9B – Stockton Avenue Bridge: Determine Caltrans Funding Before Committing Local Funds

Mayor Morgan and Councilmembers,

I appreciate the Council's unanimous August 27 direction to finally address the Stockton Avenue Bridge maintenance recommendations and to develop a genuine preservation and rehabilitation strategy.

However, the information in tonight's report changes the equation substantially.

Council's August 27 direction contemplated completing the Caltrans-recommended polyester concrete overlay for construction costs not exceeding \$150,000 and, if possible, before winter. We now know the preliminary project cost is approximately \$410,000 — \$126,000 for engineering and approximately \$284,000 for construction — before traffic control, approach-roadway work, inspection and materials testing are included.

Staff is therefore presenting methacrylate treatment as a lower-cost interim alternative at approximately \$172,000, again before several additional costs are included. Staff itself describes methacrylate as an interim preservation measure rather than the treatment recommended by Caltrans.

I don't believe Council should allow the desire to complete something before winter to drive the engineering decision.

There is also a major funding question missing from tonight's report.

In April, the City's own structural consultant stated that, based on the 2022 Caltrans inspection report, the Stockton Avenue Bridge **is currently eligible for Bridge Preventive Maintenance Program funding to repair the bridge deck**. The consultant also indicated that the newer 2026 condition information could result in Caltrans reassessing the bridge for Highway Bridge Program funding for rehabilitation and potentially replacement.

Caltrans' Highway Bridge Program provides federal aid to local agencies for bridge rehabilitation and preventive maintenance. Federal preventive-maintenance eligibility has existed for local public bridges for many years.

So before Capitola commits \$172,000, \$410,000 or potentially considerably more of local money, I ask Council to direct staff to obtain answers to five questions:

1. Has the City ever applied for HBP or BPMP funding for Stockton Avenue Bridge, particularly Caltrans-recommended deck work?
2. What portion of the polyester overlay is currently eligible for federal reimbursement, and what local match would Capitola actually have to provide?
3. Has Caltrans reviewed the March 2026 condition findings, and could those findings make a more comprehensive rehabilitation project eligible for HBP funding?
4. Would proceeding now with locally funded methacrylate or polyester work affect future reimbursement or eligibility for a larger rehabilitation project?
5. What immediate work does the bridge engineer say is actually necessary before this winter for safety, as opposed to desirable preventive maintenance that could be properly designed and funded?
6. Was that April recommendation carried out?
7. Were the March 2026 inspection findings and photographs actually sent to Caltrans, when were they sent, and
8. what response has the City received regarding updated HBP eligibility?

The City's future RFP now calls for a consultant experienced in the Caltrans local-assistance process and in identifying state and federal funding. That's good. But that funding analysis should happen **before**, not after, Council commits hundreds of thousands of dollars from local reserves.

Council inherited a maintenance problem that appears to have accumulated for years. Please don't allow that past delay to create an artificial urgency that leads to another rushed decision.

Do the necessary safety work. Monitor the bridge through winter. But take the time to design the right preservation project, pursue every available Caltrans and federal dollar, and bring Council an apples-to-apples comparison of cost, lifespan and long-term rehabilitation compatibility before committing substantial local funds.

Finally, I ask Council to address the management failure that brought us here. It is unacceptable for inspection reports concerning a major piece of City infrastructure to be received for years while significant maintenance recommendations apparently never reach the City Manager or Council for a funding decision.

Please direct the City Manager to establish a formal infrastructure accountability process for all major City assets — bridges, roads, storm infrastructure, the Wharf and other critical facilities. Every inspection report should be logged, reviewed, assigned to a responsible department, its recommendations tracked to completion or formally deferred, available grant funding evaluated, and significant unfunded needs reported to Council, and published on the city web portal for public transparency.

That is the accountability piece still missing from this discussion.

If staff recommends deferring maintenance, that should be a documented management decision — not something Council discovers a decade later.

Stockton Bridge cannot simply become a lesson about what went wrong. Council should require the City Manager to show you what management controls are being put in place so this cannot happen again.

Kevin Maguire
Capitola

Item 5 E.



Public Works Department

Memo

To: Julia Gautho, City Clerk
From: Jessica Kahn, Public Works Director
Date: September 8, 2026
Re: Underground Utility District No. 6 and Rule 20A Program Update

Following publication of the agenda, the City received the attached email from PG&E providing additional information regarding the potential Monterey Avenue undergrounding project. The information includes a preliminary Class 5 estimate of approximately \$2.7 million and considerations related to project constructability and schedule.

The email is provided as additional material for the Council's consideration.

Gautho, Julia

From: Gautho, Julia
Sent: Tuesday, September 8, 2026 11:44 AM
To: Gautho, Julia
Subject: FW: Monthly Capitola Rule 20A Project Check-In PM35655679

From: Pace, Kathy <KAPH@pge.com>
Sent: Tuesday, September 8, 2026 9:40 AM
To: Kahn, Jessica <jkahn@cityofcapitola.gov>
Subject: RE: Monthly Capitola Rule 20A Project Check-In PM35655679

Classification: Public

Good morning, Jessica,

The preliminary Class 5 AACE estimate for the proposed Monterey Avenue project (Fanmar Way to Cherry Avenue) is approximately \$2.7 million. This estimate is based on the projected footage and service count within the project limits, as well as historical data from similar Rule 20A projects. I do have concerns regarding the constructability of the services located behind the retaining wall. Should the City decide to pursue this project, PG&E would need to review the retaining wall as-built drawings during the design phase to evaluate potential construction approaches and ensure that any work can be performed without impacting the wall's structural integrity. Addressing this challenge would likely increase both project costs and schedule duration.

Regarding project feasibility, I would like to reiterate that PG&E's current planning assumptions indicate there may be insufficient time to complete the project that has already been designed. Introducing a new project that has not yet entered the design phase would create additional and significant risk that the project could not be completed prior to the CPUC mandated program sunset date.

Please let me know if you have any questions or would like to discuss.

Kathy Pace, PMP
Rule 20A Program Liaison, Municipal Projects & Programs
Pacific Gas and Electric Company
805-588-4117

Gautho, Julia

From: Kevin Maguire <kmaguire831@gmail.com>
Sent: Tuesday, September 8, 2026 1:27 PM
To: City Clerk; City Council
Subject: Agenda 9 C- Underground Utility District No. 6 and Rule 20A Program Update

Good evening Mayor and Council.

I want to comment on the Rule 20A undergrounding discussion and, in particular, the choice between continuing with the Bay and Capitola Avenue project, looking at Monterey Avenue, or simply letting this program go.

After listening to the discussion from last council meeting and reviewing the staff report, I think there is an important financial question that needs to come before the question of where we put the poles underground.

The approximately \$3 million in Rule 20A credits is not \$3 million in cash sitting in the City's bank account. It is a utility credit that can be used for eligible undergrounding work, and there are substantial costs that Rule 20A does not cover.

For the Bay and Capitola project, the last estimate was approximately \$4.5 million, and that estimate is already several years old. We were told that construction costs have increased, and the City could potentially be responsible for a very substantial gap, along with easements, restoration, lighting, traffic control and other costs.

I have a hard time supporting the City spending potentially a million dollars or more of scarce local money simply because we have a credit that expires.

We have real infrastructure needs in Capitola. We have roads, sidewalks, the Wharf, the trestle and other projects competing for limited City resources. I don't think we should take money away from those priorities simply to make use of a Rule 20A credit.

That said, if the City is going to pursue undergrounding, I agree with the idea of looking at Monterey rather than Bay and Capitola.

Monterey is one of the most visible approaches into Capitola and has a much greater opportunity to produce a meaningful public and aesthetic benefit. If we're going to use a limited undergrounding opportunity, I would rather see it produce a significant benefit to the community than spend a large amount of local money to underground one intersection. **(Side note regarding the telephone pole in the sidewalk at Bay/Capitola, there appears to be an easement in front of the bank, or city property. To add 2 feet of sidewalk to make the wider is a lot simpler and cheaper than trying to underground only 4 poles)**

But I think there needs to be a very clear line drawn here:

If Monterey can be fully funded with the Rule 20A credits and outside grant funding, without requiring the City to come up with significant matching funds, then absolutely, let's investigate it.

But if Monterey also requires the City to commit substantial General Fund or other scarce local capital, I think we should let this go.

We shouldn't spend money simply because we have a credit. And we shouldn't spend staff time chasing a project that we already know we cannot afford.

I would encourage Council to ask staff and PG&E to provide the preliminary Monterey estimate, identify every cost that would fall outside the Rule 20A credits, and identify whether there is an actual grant or outside funding source available to cover those costs.

Then I think the decision becomes very simple:

If it can be done without a significant City contribution, pursue it. If it requires substantial City funding, move on and invest our limited resources in projects that are actual City priorities.

Thank you.

Kevin Maguire

Capitola since 74'

Gautho, Julia

From: Capitola Child Care <capchildcare@gmail.com>
Sent: Wednesday, September 9, 2026 9:29 AM
To: Gerry Jensen; Margaux Morgan; Melinda Orbach; Clarke, Joe; Westman, Susan; City Council
Subject: Agenda 9D - Citywide Municipal Code Amendments

Mayor and Councilmembers,

I am asking you **not to adopt the Chapter 17.88 portion of Item 9D as written tonight**, and specifically to restore childcare as an eligible community benefit.

I operate a licensed Family Child Care Home here in Capitola. An FCCH is not technically the same zoning classification as a child care center — your own code separately identifies “Home Day Care” and “Day Care Centers.” But both are part of the same child-care infrastructure that working families depend on.

What concerns me is that the City is taking childcare **out** of the community-benefit program at the exact moment it is encouraging more mixed-use housing.

The City's adopted Housing Element could hardly be clearer. Program 1.4 calls for an expanded list of community benefits that complement mixed-use residential development and specifically identifies **childcare facilities** as an example.

The existing Chapter 17.88 already recognizes “child care centers and other facilities providing daytime care and supervision to children” as a community benefit.

Yet the replacement ordinance deletes childcare from that list.

Even more difficult to understand, the ordinance before you tonight **keeps childcare as a community benefit for the Village Hotel**, while eliminating it from the chapter governing mixed-use development along 41st Avenue and Capitola Road.

So I have a basic question:

Why is providing childcare considered a valuable enough public benefit to justify development incentives for a hotel, but not for a mixed-use residential project where new families and children will actually live?

If the concern is that the Housing Element requires objective standards, then create objective standards for childcare. Establish a minimum licensed capacity, minimum square footage, required operating period, or another measurable standard. **The answer should not be to delete the benefit altogether.**

We are talking about giving developers significant incentives — potentially greater height, increased floor area, and other development benefits. If the community is giving something of value, Capitola should preserve the ability to receive something families genuinely need in return.

Childcare supports working parents, employers, housing, and the economic vitality of the community. Housing and childcare are not competing priorities. **More housing creates more need for childcare.**

Please don't adopt a Housing Element implementation ordinance that removes one of the very community benefits the Housing Element itself specifically identifies. And please don't tell us childcare is a community benefit for a hotel, but somehow not for housing. Restore childcare to Chapter 17.88.

--

*Thank you,
Teresa Maguire
Owner / Director
Capitola Child Care
831-247-8925*



Gautho, Julia

From: Eric <ecnano78@gmail.com>
Sent: Thursday, September 10, 2026 3:35 PM
To: City Council
Subject: Item 9.D - Body Art Ordinance - Temporary & Mobile Operations

Dear Mayor Morgan and Members of the City Council,

I'm a Capitola resident, and I'm excited to see this ordinance reach the Council. Thank you to City staff, the Planning Commission, and the Council for the thoughtfulness you've brought to this process. I fully support adoption, and offer one small recommendation.

The ordinance's glossary defines a "Temporary or Mobile Body Art Facility," yet Section 17.96.080.F.7 prohibits it outright. The State Safe Body Art Act and Santa Cruz County already license and regulate these operations, and they are common and professionally run at conventions, fairs, and festivals. As written, no licensed studio could even offer body art at the City's own events, like the Art & Wine Festival.

I'd respectfully recommend allowing temporary, mobile, and outdoor body art operations by City permit, with appropriate conditions, rather than prohibiting them. It's a minor adjustment, consistent with existing State and County regulation, that supports small businesses and won't slow adoption.

Thank you again for all the hard work on this and for the opportunity to comment.

Respectfully,

Eric Cirignano

Gautho, Julia

From: Sophie Haugen <sophie@calhdf.org>
Sent: Thursday, September 10, 2026 4:09 PM
To: City Clerk
Cc: Goldstein, Jamie; Planning; Herlihy, Katie; mtran@bwsllaw.com
Subject: Public Comment re item 9D for tonight's City Council Meeting
Attachments: Capitola - ADU Ordinance - 9_10_2026.pdf

Dear City of Capitola,

The California Housing Defense Fund (CalHDF) submits the attached public comment re item 9D for tonight's city council meeting, the proposed amendments to the ADU ordinance.

Sincerely,

Sophie Haugen
California Housing Defense Fund
Sophie@calhdf.org
CalHDF is grant & donation funded
Donate today - <https://calhdf.org/donate/>.



Sep 10, 2026

**City of Capitola
420 Capitola Ave
Capitola, CA 95010**

By Email: cityclerk@cityofcapitola.gov;

CC: jgoldstein@cityofcapitola.gov; planning@cityofcapitola.gov;
kherlihy@cityofcapitola.gov; mtran@bwslaw.com;

Re: Proposed Amendment to the City's Accessory Dwelling Unit Ordinance

Dear City of Capitola,

The California Housing Defense Fund (CalHDF) submits this letter as a public comment concerning item 9D for the Council meeting of September 10th, 2026, a proposed amendment to the City's code sections governing the development of accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs).

We appreciate that the City is updating its ordinance to keep pace with changes in state law. However, the proposed ordinance does not comply with state ADU law for the reasons discussed in this letter. The City must amend the proposed ordinance in order to address these issues.

Background

The law gives local governments authority to enact zoning ordinances that implement a variety of development standards on ADUs. (Gov. Code, § 66314.) The standards in these local ordinances are limited by state law so as not to overly restrict ADU development. (See *id.*) Separately from local ADU ordinances, Government Code section 66323 establishes a narrower set of ADU types that local governments have a ministerial duty to approve. "Notwithstanding Sections 66314 to 66322 ... a local agency shall ministerially approve" these types of ADUs. (*Id.* at subd. (a).) This means that ADUs that satisfy the minimal requirements of section 66323 must be approved regardless of any contrary provisions of the local ADU ordinance. (*Ibid.*) Local governments may not impose their own standards on such ADUs. (Gov. Code, § 66323, subd. (b) ["A local agency shall not impose any objective development or design standard that is not authorized by this section upon any accessory dwelling unit that meets the requirements of any of paragraphs (1) to (4), inclusive, of subdivision (a)."].)

**2201 Broadway, PH1, Oakland, CA 94612
hi@calhdf.org**

In addition, ADUs that qualify for the protections of Government Code section 66323, like other ADUs, must be processed by local governments within 60 days of a complete permit application submittal. (Gov. Code, § 66317, subd. (a).)

State law also prohibits creating regulations on ADU development not explicitly allowed by state law. Government Code Section 66315 states, “No additional standards, other than those provided in Section 66314, shall be used or imposed, including an owner-occupant requirement, except that a local agency may require that the property may be used for rentals of terms 30 days or longer.”

Impermissible Discretionary Process

Code section 1774.030(B), 1774.070, and 1774.100 all require Planning Commission approval of a design permit while 1774.070(B) explicitly excludes "accessory dwelling units approved pursuant to Section 1774.050." However, state law does not allow any such process for any ADU type.

Government Code section 66316:

“An existing accessory dwelling unit ordinance governing the creation of an accessory dwelling unit by a local agency or an accessory dwelling ordinance adopted by a local agency shall provide an approval process that includes only ministerial provisions for the approval of accessory dwelling units and shall not include any discretionary processes ...”

Government code section 66317, subdivision (a):

“ A permit application for an accessory dwelling unit or a junior accessory dwelling unit shall be considered and approved ministerially without discretionary review or a hearing ...”

If the City wishes to create a path for approval of certain ADUs that are taller or larger than a given threshold, then it should write objective criteria into its code and allow ministerial approval by City staff.

While the City may think that is helping applicants by providing a more flexible, discretionary path, on the contrary it is vastly more helpful to establish clear rules and objective criteria that are approved ministerially, rather than let an applicant embark on a longer, more challenging and expensive discretionary path.



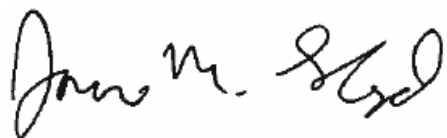
We applaud the City for updating its ADU as state law changes. However, the City must amend its ADU ordinance to address the above issues.

CalHDF is a 501(c)(3) non-profit corporation whose mission includes advocating for increased access to housing for Californians at all income levels, including low-income households. You may learn more about CalHDF at www.calhdf.org.

Sincerely,



Dylan Casey
CalHDF Executive Director



James M. Lloyd
CalHDF Director of Planning and Investigations

Gautho, Julia

From: Kevin Maguire <kmaguire831@gmail.com>
Sent: Wednesday, September 9, 2026 9:47 AM
To: Gerry Jensen; Margaux Morgan; Melinda Orbach; Clarke, Joe; Westman, Susan; City Council; City Clerk; Goldstein, Jamie
Subject: 9/10/26 - Item 9E – FY 2025-26 Revenue and Expenditure Update

Item 9E – FY 2025-26 Revenue and Expenditure Update

I support the prudent use of the \$1 million one-time Wharf insurance settlement to restore City reserves rather than using one-time revenue for ongoing expenditures. However, before Council directs the allocation, I ask that the public be provided a clear reserve schedule showing each established reserve target, the current balance of each reserve, and the proposed balance after applying the insurance proceeds.

I also ask Council for greater detail regarding City Attorney expenditures. The City budgeted \$325,000 and spent \$629,625, an approximately \$304,625 unfavorable variance. The report identifies districting, Mall/Housing Element work, PRA costs and flume litigation generally, but does not show the cost attributable to each or identify the amount staff expects to reallocate to special revenue funds. A variance of this magnitude warrants a transparent breakdown.

Finally, please clarify the apparent inconsistency in the report: General Fund revenues exceeded budget by approximately \$591,000, while the approximately \$486,000 figure appears to represent revenues exceeding expenditures, not revenues exceeding budget.

Given the pending Stockton Bridge costs, Laurence Avenue repairs, winter risks and the Finance Advisory Committee's planned review of the reserve policy, I would also encourage Council not to treat the approximately \$100,000 above today's reserve target as discretionary money until that reserve-policy review is completed.

Kevin Maguire - Capitola Citizen

Gautho, Julia

From: Kevin Maguire <kmaguire831@gmail.com>
Sent: Wednesday, September 9, 2026 3:59 PM
To: Gautho, Julia
Subject: 9/10 Agenda questions / issues...

Hi Julia,

I noticed a few apparent corrections in the September 10 agenda packet:

Item 8A – September 3 Special Meeting Minutes: The roll call lists Councilmember Orbach as both present and absent. The subsequent vote lists her as absent, so it appears her name should be removed from the “in attendance” portion.

Item 8B – Elections Code §21130(f) Report: The explanation regarding the West Capitola split states that it was impossible to unite “West Capitola, the Extended Jewel Box, the Tool Box and West Capitola” in one district. West Capitola is listed twice. Please confirm the intended neighborhood and correct the report before it is formally issued and posted.

Item 9E – FY 2025-26 Revenue and Expenditure Update: The report states that General Fund revenues were approximately \$591,000 above budget and revenues exceeded expenditures by approximately \$486,000. The conclusion appears to instead state that revenues exceeded the adopted budget by approximately \$486,000. Please confirm whether that should read \$591,000, with \$486,000 representing the operating surplus.

Thank you,
Kevin

Capitola City Council

Agenda Report

Meeting: September 10, 2026

From: City Manager Department

Subject: City Council Meeting Minutes



Recommended Action: Approve minutes from the special meeting on August 25, 2026, the regular meeting on August 27, 2026, the special meeting on September 2, 2026, and the special meeting on September 3, 2026.

Background: Attached for City Council review and approval are the draft minutes from the special meeting on August 25, 2026, the regular meeting held on August 27, 2026, the special meeting on September 2, 2026, and the special meeting on September 3, 2026..

Alignment with 2025-2029 Strategic Plan Priority: Accountable Government

Attachments:

1. Special Meeting 8/25/2026
2. Regular Meeting 8/27/2026
3. Special Meeting 9/2/2026
4. Special Meeting 9/3/2026

Report Prepared By: Julia Gautho, City Clerk

Approved By: Jamie Goldstein, City Manager

City of Capitola

Project Celebration / Special City Council Meeting Minutes

Tuesday, August 25, 2026 – 12:00 PM



Jade Street Park

4400 Jade Street, Capitola, CA 95010

Mayor: Margaux Morgan

Vice Mayor: Gerry Jensen

Council Members: Joe Clarke, Melinda Orbach, Susan Westman

Special Meeting of the Capitola City Council – 12 PM

1. Roll Call — *The meeting was called to order at 12:00 PM. In attendance: Council Members Orbach, Westman, Vice Mayor Jensen, and Mayor Morgan. Absent: Council Member Clarke.*

2. General Government

A. Jade Street Park Reimagined: Grand Opening Celebration for the Community Center and Treasure Cove Playground

Recommended Action: None. No Council Action will be taken.

Public Comment: None

10. Adjournment

The meeting adjourned at 12:40 PM. The next regularly scheduled City Council meeting is on August 27, 2026, at 6:00 PM.

Margaux Morgan, Mayor

ATTEST:

Julia Gautho, City Clerk

City of Capitola

City Council Meeting Minutes

Thursday, August 27, 2026 – 6:00 PM



City Council Chambers

420 Capitola Avenue, Capitola, CA 95010

Mayor: Margaux Morgan

Vice Mayor: Gerry Jensen

Council Members: Joe Clarke, Melinda Orbach, Susan Westman

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 Clarke, Orbach, Westman, Vice Mayor Jensen, and Mayor Morgan.*
- 2. Additions and Deletions to the Agenda** – *None*
- 3. Additional Materials**
 - A. *Item 6C – One email received after publication of the agenda packet.*
 - B. *Item 6D – One email received after publication of the agenda packet.*
 - C. *Item 7C – Four emails received after publication of the agenda packet.*
 - D. *Item 7D – One email received after publication of the agenda packet.*
 - E. *Item 7E – One email received after publication of the agenda packet.*
- 4. Oral Communications by Members of the Public**
 - *Terre Thomas*
 - *Leslie Nielsen*
 - *Kevin Maguire*
 - *Molly Turner*
- 5. Staff / City Council Comments**
 - *City Manager Goldstein thanked staff, the community, and the City Council for attending the opening of the Jade Street Park Community Center and Treasure Cove Playground; and advised the public that the City will be hosting a Town Hall meeting on November 19, 2026, at the Jade Street Community Center. He also introduced Interim City Clerk Lesley Milton.*
 - *Community and Economic Development Director Herlihy advised the public that there will be a community meeting to discuss the Cliff Drive Resiliency Project at 5 PM on September 2, 2026.*
 - *Mayor Morgan paused Staff and Council Comments to hear Item 7A, as it was a time-sensitive public hearing.*
 - *Council Member Westman thanked staff for scheduling a Town Hall meeting; clarified her comments from the July 23rd Council meeting about the City Manager's performance evaluation and requested that his evaluation be rescheduled for Spring 2027; and she provided updates from recently attended AMBAG and Seniors Council meetings.*
 - *Vice Mayor Jensen inquired about staff's response to correspondence received related to the use of e-bikes on the Riverview pathway. He provided comments on his attendance at the*

Wharf to Wharf race, National Night Out, a recently attended MBARD meeting, the reopening of the Jade Street Community Center and Park, a recently attended Ecology Action meeting, a community meeting with Congressman Panetta at the Monterey Bay Aquarium, a recently attended RTC meeting, and provided an update on the Grand Jury report received by the RTC.

- *Council Member Orbach requested an agenda item that would authorize the City to send a letter opposing Proposition 43 on the ballot in November. She also requested staff and Council support to recognize “Week Without Driving,” held October 1 through October 8.*
- *Council Member Westman agreed with Council Member Orbach’s request for an agenda item to provide a letter of opposition to Proposition 43.*
- *Council Member Clarke thanked Vice Mayor Jensen for his efforts representing the City on the RTC and reminded the public of the upcoming Movies on the Beach event on August 28th.*
- *Mayor Morgan thanked the public for attending the Jade Street Park reopening event and thanked Public Works staff for their community outreach efforts related to the Active Transportation Plan and Esplanade Park.*

6. Consent Items

A. City Council Meeting Minutes

Recommended Action: Approve minutes from the regular meeting on July 23, 2026.

B. City Check Registers

Recommended Action: Approve check registers dated June 19, 2026, July 3, 2026, July 17, 2026, and July 31, 2026.

C. Contract Amendment for Planning and Building Services

Recommended Action: Authorize the City Manager to execute 1) Amendment 2 to the Professional Services Agreements with CSG Consultants, Inc. for Planning Consultant Services to increase contract funding by \$50,000; and 2) Amendment 1 to the Professional Services Agreement with CSG Consultants, Inc. for Building Consultant Services to increase contract funding by \$95,000.

D. Ben Noble Planning Contract

Recommended Action: Adopt a resolution authorizing the City Manager to execute a sole source Professional Services Agreement, in a form acceptable to the City Attorney’s Office, with Ben Noble Planning in an amount not to exceed \$80,000 for a two-year term to provide General Plan implementation services for Zoning Code updates. ***(Pulled for further discussion by Council Member Clarke)***

E. OPC SB 1 Sea-Level Rise Adaptation Planning Grant

Recommended Action: Authorize staff to submit an application to the Ocean Protection Council’s SB 1 Sea-Level Rise Adaptation Planning Grant Program.

F. ECYP Fund Allocation

Recommended Action: Adopt a resolution authorizing an allocation of \$40,000 from the Early Childhood and Youth Programming (ECYP) Fund for youth program scholarships for Fiscal Year 2026-27 and approving the corresponding budget amendment to appropriate the funds for this purpose. ***(Resolution No. 4506)***

Council Member Clarke requested to pull Item 6D for further explanation from staff.

Motion to approve Items 6A-C and 6E-F: Council Member Orbach

Second: Council Member Westman

Voting Yea: Council Members Clarke, Orbach, Westman, Vice Mayor Jensen, and Mayor Morgan

7. General Government / Public Hearings

- A. Fifth Public Hearing to Receive Community Input and Adopt an Ordinance Transitioning to District-Based Elections

Recommended Action: 1) Conduct a **time-certain duly noticed public hearing at 6:15 PM** to receive community input; and 2) Adopt an ordinance of the City of Capitola amending Chapter 2.04 of Title 2 of the Capitola Municipal Code to provide for the election of City Council Members by four districts with an elected mayor; establish district boundaries and election order for each district; and make other amendments.

City Clerk Gautho provided the staff report.

Public Comment:

- **Cami Corvin**
- **Terre Thomas**

The Council thanked staff and the Council Members for their efforts in the districting process and requested clarification on mailing issues. Staff confirmed that mailing issues had been resolved prior to the sending of the second mailer.

Motion to adopt Ordinance No. 1076: Council Member Westman

Second: Vice Mayor Jensen

Voting Yea: Council Members Clarke, Orbach, Westman, Vice Mayor Jensen, Mayor Morgan

- B. Agreement with the RTC for the Capitola Trestle Assessment

Recommended Action: Authorize the City Manager to execute a Cooperative Agreement with the Santa Cruz County Regional Transportation Commission (RTC) for the Capitola Trestle Assessment.

Public Works Director Kahn provided the staff report.

Public Comment: None

Council expressed appreciation for the collaboration of the City and the RTC for this cooperative agreement.

Motion to authorize the City Manager to execute a Cooperative Agreement with the RTC for the Capitola Trestle Assessment: Council Member Clarke

Second: Vice Mayor Jensen

Voting Yea: Council Members Clarke, Westman, Vice Mayor Jensen, Mayor Morgan

Voting Nay: Council Member Orbach

- C. Stockton Avenue Bridge Existing Conditions Assessment and Project Development Services Agreement

Recommended Action: Authorize the City Manager to execute a Professional Services Agreement with CSW/ST2 for the assessment of Stockton Avenue Bridge's existing conditions and project development services in an amount not to exceed \$474,912.

Public Works Director Kahn provided the staff report.

Public Comment:

- **Keith Cahalen**
- **Speaker**
- **Tory Del Favero**
- **Leslie Nielsen**
- **Terre Thomas**
- **Bob Hickman**

- **Michael Morrissey**
- **Speaker**
- **Cheryl**
- **Mary Beth Cahalen**

The Council discussed the importance of the Stockton Bridge to the City and the impacts that various projects involving the Stockton Avenue Bridge would have upon the community; and discussed condition reports issued by CalTrans and lack of maintenance conducted on the Bridge.

Motion by Vice Mayor Jensen to:

- 1. Direct staff to immediately proceed with obtaining bids for CalTrans recommended polyester concrete overlay and related preventative maintenance for the Stockton Avenue Bridge, in an amount not to exceed \$150,000, with the goal of completing the work before the winter season. Funding shall come from available remaining funds from the recent Reposa Paving Project. If additional funding is necessary, it shall come from the City's Emergency Reserve Fund. If the total cost exceeds \$150,000, staff shall return to the City Council for additional authorization;**
- 2. Direct staff to proceed with developing a plan to rebuild and preserve the existing Stockton Avenue Bridge, including appropriate debris mitigation efforts;**
- 3. Direct staff to issue a request for proposals for the Stockton Avenue Bridge project, with particular emphasis on soliciting firms with demonstrated expertise in bridge rehabilitation, historic bridge preservation and retrofitting, and successfully working through the CalTrans process, including identifying and securing available funding;**
- 4. Direct staff to continue meaningful community outreach throughout the process and provide the City Council with monthly updates regarding any changes in the Bridge's condition, maintenance activities, engineering analysis, project progress, and community outreach efforts;**
- 5. Direct staff and/or appropriate consultants to inspect the Soquel Creek corridor within the City's jurisdiction and coordinate with the appropriate agencies and property owners to identify and address, where legally permissible and environmentally appropriate, any trees, brush, vegetation, or other debris that could obstruct Creek flow or create a potential hazard during the upcoming winter rains. Staff shall provide the City Council with a written follow-up report identifying the findings, recommended actions, and any work completed or still required.**

Second: Council Member Clarke

Staff requested clarification on the project scope related to portion 3 of the motion and costs for portion 1 of the motion. Staff clarified the expected timeframe to return to the City Council with the items requested.

Voting Yea: Council Members Clarke, Orbach, Westman, Vice Mayor Jensen, Mayor Morgan

The Council took a recess at 8:07 PM and reconvened at 8:12 PM.

- D. Underground Utility District No. 6 and Rule 20A Program Update**
Recommended Action: Receive information regarding Underground Utility District No. 6 and the Rule 20A utility undergrounding program, including district history, implementation considerations, and utility coordination issues, and provide direction as desired. *(Continued from May 28, 2026, City Council Meeting)*

Public Works Director Kahn provided the staff report.

Public Comment:

- **Keith Cahalen**

Council thanked Kathy Pace, PG&E's representative, for attending the meeting and answering Council questions. Council discussed the feasibility and merits of the proposed projects utilizing Rule 20A funding and requested that PG&E provide cost estimates for an undergrounding project on a portion of Monterey Avenue.

Motion to continue the item to September 10, 2026, to allow staff to return with additional information: Council Member Westman

Second: Council Member Orbach

Voting Yea: Council Members Clarke, Orbach, Westman, Vice Mayor Jensen, Mayor Morgan

E. Bay Avenue Corridor Safety Improvements

Recommended Action: Direct staff to proceed with the proposed safety improvements at Bay Avenue/Hill Street and Bay Avenue/Center Street.

Public Works Director Kahn provided the staff report.

Public Comment:

- Cheryl

Council thanked staff for their work on this item.

Motion to direct staff to proceed with the proposed safety improvements at Bay Avenue/Hill Street and Bay Avenue/Center Street: Council Member Orbach

Second: Council Member Westman

Voting Yea: Council Members Clarke, Orbach, Westman, Vice Mayor Jensen, Mayor Morgan

F. Discussion Regarding Residency Requirements for Elective Office

Recommended Action: Discuss residency requirements for elective office and provide direction to staff.

City Attorney Tran provided the staff report.

Public Comment:

- Heidy Kellison
- Cami Corvin
- TJ Welch

The Council directed the City Attorney to prepare a draft policy outlining a voluntary residency verification program for Council candidates, elected officials, or appointees. The Council requested that when the item returns for approval, staff includes information about enforcement and an annual verification process.

6. Consent Items Pulled for Discussion

D. Ben Noble Planning Contract

Recommended Action: Adopt a resolution authorizing the City Manager to execute a sole source Professional Services Agreement, in a form acceptable to the City Attorney's Office, with Ben Noble Planning in an amount not to exceed \$80,000 for a two-year term to provide General Plan implementation services for Zoning Code updates. **(Pulled for further discussion by Council Member Clarke)**

Community and Economic Development Director Herlihy provided an oral report.

Public Comment:

- Peter Wilk

The City Council expressed an interest in issuing a one-year agreement with Ben Noble, rather than two, to reduce costs.

Motion to adopt Resolution No. 4505, authorizing a one-year sole-source agreement with Ben Noble Planning: Council Member Westman

Second: Council Member Orbach

Voting Yea: Council Members Clarke, Orbach, Westman, Vice Mayor Jensen, Mayor Morgan

8. Adjournment - *The meeting adjourned at 9:30 PM. The next regularly scheduled City Council meeting is on September 10, 2026, at 6:00 PM.*

Margaux Morgan, Mayor

ATTEST:

Julia Gautho, City Clerk

City of Capitola

Joint Special Meeting of the City Council and Planning Commission Minutes

Wednesday, September 02, 2026 – 5:00 PM



City Hall Community Room
420 Capitola Avenue, Capitola, CA 95010

Mayor: Margaux Morgan

Vice Mayor: Gerry Jensen

Council Members: Joe Clarke, Melinda Orbach, Susan Westman

1. Additional Materials

- A. *Item 2A – One email received after publication of the agenda packet.*

2. General Government / Public Hearings

- A. Cliff Drive Resiliency Project Update and IS/MND

Join City staff for a presentation and community discussion about the Cliff Drive Resiliency Project, including the proposed improvements, environmental review, and next steps. Planning Commissioners and City Councilmembers may attend; however, there will be no deliberation or discussion among either body and no action will be taken.

Public Comment:

- TJ Welch
- Jacques Bertrand
- Michael Morrisey
- Leslie Nielsen
- Nels Westman
- Chad Keane
- John Kasunich
- Cami Corvin
- Keith Cahalen
- Elisabeth Bertrand
- Bob Hickman
- Kevin Maguire

3. Adjournment

The meeting adjourned at 6:16 PM. The City Council will hold a regularly scheduled meeting on September 10, 2026, at 6:00 PM.

Margaux Morgan, Mayor

ATTEST:

Julia Gautho, City Clerk

City of Capitola

Special City Council Meeting Minutes

Thursday, September 03, 2026 – 4:00 PM



City Council Chambers

420 Capitola Avenue, Capitola, CA 95010

Mayor: Margaux Morgan

Vice Mayor: Gerry Jensen

Council Members: Joe Clarke, Melinda Orbach, Susan Westman

Special Meeting of the Capitola City Council – 4 PM

1. Roll Call

The meeting was called to order at 4:00 PM. In attendance: Council Members Clarke, Orbach, Westman, Vice Mayor Jensen, and Mayor Morgan. Absent: Council Member Orbach.

2. Additional Materials

- A. *Item 3A – Two emails received after publication of the agenda packet.*
- B. *Item 4 – One piece of correspondence received after publication of the agenda packet.*

3. General Government

- A. Chapter 8.40: Capitola Municipal Code

Recommended Action: 1) Adopt an urgency ordinance amending Chapter 8.40 of the Capitola Municipal Code to remove the expiration language in Section 8.40.150(G), so the City's safe drug and sharps disposal requirements remain in effect; and 2) introduce for first reading, waiving further reading, an ordinance amending Chapter 8.40 of the Capitola Municipal Code to remove the expiration language in Section 8.40.150(G).

Public Works Director Kahn presented the staff report.

Public Comment:

- ***Darcy Pruitt, County of Santa Cruz***

The Council provided positive feedback on the City's existing safe disposal program for medications and sharps containers.

Motion to adopt Urgency Ordinance No. 1077 and introduce Ordinance No. 1078: Council Member Westman

Second: Council Member Clarke

Voting Yea: Council Members Clarke, Westman, Vice Mayor Jensen, Mayor Morgan

Absent: Council Member Orbach

4. Oral Communications by Members of the Public – None

5. Adjournment

The meeting adjourned at 4:10 PM. The next regularly scheduled City Council meeting is on September 10, 2026, at 6:00 PM.

Margaux Morgan, Mayor

ATTEST:

Julia Gautho, City Clerk

Capitola City Council

Agenda Report

Meeting: September 10, 2026

From: City Manager Department

Subject: Elections Code Section 21130(f) Report



Recommended Action: Direct City staff and the City's retained demographer, National Demographics Corporation, to issue and post the Elections Code Section 21130(f) report.

Background: On August 27th, the City of Capitola conducted the fifth duly-noticed public hearing, received public input, closed the public hearing, and then adopted Ordinance No. 1076. This ordinance amends Chapter 2.04 of Title 2 of the Capitola Municipal Code to provide for the election of City Council Members by four districts with an elected mayor; establish district boundaries and election order for each district; and make other amendments to establish "by-district" elections of council members from four electoral districts. The Ordinance further establishes the boundary lines for each of the four districts along with the sequence of elections such that one district and the Mayor will be elected at the regular municipal election to be held in November 2028 (Council District 3) and three districts and the Mayor (Council Districts 1, 2, and 4) will be elected at the regular municipal election to be held in November 2030, pursuant to Government Code Section 34886.

Discussion: In accordance with California Elections Code Section 21130(f), within 21 days of Council adoption of the final election district boundaries, the City Council must direct staff to issue and post a report that explains the basis on which the districting body made its decisions in achieving compliance with the requirements and criteria described in this Elections Code, including, as to each neighborhood, community of interest, city, or census designated place that was split into two or more districts, the reason for that split. The report is included as Attachment 1.

Fiscal Impact: There is no fiscal impact associated with the recommended action.

Attachments:

1. Elections Code Section 21130(f) Report

Alignment with 2025-2029 Strategic Plan Priority: Accountable Government

Report Prepared By: Julia Gautho, City Clerk

Reviewed By: Marc Tran, City Attorney

Approved By: Jamie Goldstein, City Manager

City of Capitola Elections Code Section 21130f Disclosure Report

Elections Code Section 21130(f) language:

f)... the districting body shall issue a report that explains the basis on which the districting body made its decisions in achieving compliance with the requirements and criteria described in this section, including, as to each neighborhood, community of interest, city, or census designated place that was split into two or more districts, the reason for that split.

Disclosure:

National Demographics Corporation (NDC), on behalf of the City of Capitola, has analyzed the City's adopted map and prepared the following analysis of the map's compliance with the criteria of Elections Code Section 21130:

21130(a): Population Equality

The ideal population in a 4-district map for Capitola is 2,487. In the adopted map, the largest district has a population of 2,590 (4.14% over the ideal) and the smallest district has a population of 2,447 (1.61% under the target population). At a total difference of 5.75% between the largest and smallest districts, the districts in the adopted map are well within the "presumed constitutional" 10% range of state and federal law, and the deviations all exist to achieve compliance with Federal and/or State criteria.

21130(b): Voting Rights Act reports

The City fully complied with the reporting requirements of Section 21130(b). That report is posted to the City's districting project website.

21130(c)(1): Contiguity

All of the districts are contiguous.

21130(c)(2): Minimize divisions of each "local neighborhood or local communities of interest"

Public comment and review of the city's geography identified local neighborhoods or local communities of interest, each was mapped, and the map was shared publicly during the districting process.

1. The Jewel Box neighborhood is entirely in one district.
2. The Extended Jewel Box neighborhood is entirely in one district.
3. The Tool Box neighborhood is entirely in one district.
4. The Village neighborhood is entirely in one district.
5. The Depot Hill neighborhood is entirely in one district.
6. The Cliffwood Heights neighborhood is entirely in one district.
7. The Upper Village neighborhood is entirely in one district.
8. The North River neighborhood is entirely in one district.
9. The Riverview Terrace neighborhood is entirely in one district.
10. The Castle Estates neighborhood is entirely in one district.
11. Four of the other five mobile home parks are individually entirely in one district.
12. The West Capitola neighborhood is divided because within the required population counts it is impossible to unite West Capitola, the Extended Jewel Box, the Tool Box and West Capitola in one district.
13. The Turner Lane mobile home park has its western edge divided into another district because within the required population counts it is impossible to unite Turner Lane, North River, and Cliffwood Heights in a single district, and because adding that western edge to District 4 would divide the residential area along Capitola Terrace from the rest of its community across Capitola Avenue.

21130(c)(3) does not apply to a city

21130(c)(4): Follow easily identifiable boundaries

“To the maximum extent practicable” the boundaries of the adopted districts follow easily-recognized roads: Capitola Road; Soquel Wharf Road; the railroad tracks; Bay Avenue; and the border of Noble Gulch Park. The rest of the boundary between districts 3 and 4 follows Census Block boundaries and secondary roads due to population balancing requirements and the goal of minimizing the division of mobile home parks. The west end of the border between districts 1 and 2 crosses Capitola Road due to population balancing requirements. The area included in district 2 across Capitola Road is "The Landing at Capitola" apartment complex, which is a stand-alone neighborhood that is separated from district 1 by unincorporated territory not in the City.

21130(c)(5): Compactness

No population is “bypassed in favor of more distant populations” in any district.

21130(d): No purpose of favoring or discriminating against an incumbent, political candidate, or political party

The map does not favor or discriminate against any incumbent, political candidate, or political party.

21130(e): Do not prioritize any criterion over the criteria listed in Section (c) of the statute

The adopted map does not prioritize any criterion over the criteria listed in Section (c) of the statute.

Capitola City Council

Agenda Report

Meeting: September 10, 2026

From: Police Department

Subject: Alcohol Policing Partnership Grant



Recommended Action: Adopt a resolution accepting a Department of Alcoholic Beverage Control Alcohol Policing Partnership Grant in the amount of \$57,881 and amending the FY 2026-27 General Fund operating budget to increase revenues and expenditures by \$57,881.

Background: The Department of Alcoholic Beverage Control (ABC), through the Alcohol Policing Partnership Grant Program, has awarded the Capitola Police Department \$57,881 to support alcohol-related enforcement, education, prevention, and training. The grant program provides financial assistance to local law enforcement agencies to develop an effective and comprehensive approach to reducing crime and public nuisance problems associated with problem alcoholic beverage outlets. The grant performance period is July 1, 2026, through June 30, 2027.

Discussion: Grant funding will support the Police Department's alcohol-related enforcement efforts through proactive enforcement, community education, licensee education, officer training, and specialized equipment.

Grant-funded activities include Minor Decoy operations, Shoulder Tap operations, IMPACT operations, general enforcement operations, and special event operations to reduce underage access to alcoholic beverages and alcohol-related crime. Education and training will include Call/TRACE training and coordination of LEAD training. The Department will also provide public awareness through press and social media releases regarding grant-funded enforcement activities.

The grant will also fund personnel overtime, decoy meals, equipment, and travel expenses to support the Department's alcohol enforcement and prevention activities.

The total grant award of \$57,881 is allocated as follows:

Personnel Services Total	\$51,161
Officer Overtime	\$33,506
Sergeant Overtime	\$11,204
Analyst	\$2,516
Benefits	\$3,935
Operating Expenses Total	\$720
Equipment Total	\$3,000
Travel Costs Total	\$3,000

The Police Department will return with a Council agenda item in the fall to outline all grant funded programs and anticipated outcomes.

Fiscal Impact: Acceptance of the grant will increase General Fund revenues and expenditures by \$57,881. The grant fully funds the proposed activities, resulting in no net fiscal impact to the General Fund. Grant funds will reimburse eligible costs incurred during the grant performance period and in accordance with the approved grant budget.

Attachments:

1. Grant Agreement
2. Resolution
3. Exhibit A Budget Amendment

Report Prepared By: Leo Moreno, Police Captain

Reviewed By: Julia Gautho, City Clerk; Sarah Ryan, Chief of Police; Jim Malberg, Administrative Services Director

Approved By: Jamie Goldstein, City Manager

Reset Form

Print Form

SCO ID: 2100-26APP03

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

26-APP03

PURCHASING AUTHORITY NUMBER

ABC-2100

Item 8 C.

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

Department of Alcoholic Beverage Control

CONTRACTOR NAME

City of Capitola through the Capitola Police Department

2. The term of this Agreement is:

START DATE

July 1, 2026

THROUGH END DATE

June 30, 2027

3. The maximum amount of this Agreement is:

\$57,881.00 (fifty-seven thousand eight hundred eighty-one dollars and no cents)

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits	Title	Pages
Exhibit A	Scope of Work	3
Exhibit B	Budget Detail and Payment Provisions	3
Exhibit C *	General Terms and Conditions (GTC 02/2025)	5
+ - Exhibit D	Special Terms and Conditions	1

Items shown with an asterisk (), are hereby incorporated by reference and made part of this agreement as if attached hereto.**These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>*

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

City of Capitola through the Capitola Police Department

CONTRACTOR BUSINESS ADDRESS

422 Capitola Avenue

CITY

Capitola

STATE

CA

ZIP

95010

PRINTED NAME OF PERSON SIGNING

Sarah Ryan

TITLE

CONTRACTOR AUTHORIZED SIGNATURE

Digitally signed by Sarah Ryan
DN: cn=Sarah Ryan, o, ou, email=sryan@ci.capitola.ca.us, c=US
Date: 2026.08.18 12:56:35 -07'00'

DATE SIGNED

8/18/2026

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of Alcoholic Beverage Control

CONTRACTING AGENCY ADDRESS

3927 Lennane Drive, Suite 100

CITY

Sacramento

STATE

CA

ZIP

95834

PRINTED NAME OF PERSON SIGNING

Patty Baker

TITLE

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

EXHIBIT A SCOPE OF WORK

I. SCOPE OF WORK

- Contractor agrees to implement the Department of Alcoholic Beverage Control (ABC), Alcohol Policing Partnership program. This program is intended to work with law enforcement agencies to develop an effective, comprehensive and strategic approach to eliminate the crime and public nuisance problems associated with problem alcoholic beverage outlets.
- Contractor agrees to implement ABC's Minor Decoy, Shoulder Tap Programs and conduct Informed Merchants Preventing Alcohol-Related Crime Tendencies (IMPACT) Inspections. These programs target both ABC licensed premises and individuals who furnish alcoholic beverages to the underage operators. The project is targeted to reduce underage drinking and the resultant DUI driving injuries and fatalities, and/or property damages, reduce youth access to alcoholic beverages through the education of licensee(s), enforcement intervention and the impressions of omnipresence of law enforcement. In addition, Contractor agrees to the following goals:
 1. The operation period of the grant is July 1, 2026 through June 30, 2027.
 2. Contractor agrees to raise public awareness that selling, serving and/or furnishing alcoholic beverages to individuals under twenty-one years old is a criminal violation that will be prosecuted by local city and district attorneys.
 3. Minor Decoy operations are designed to educate and deter licensed locations from selling/furnishing alcohol to minors. Contractor agrees to conduct Minor Decoy Operations at both "On-Sale" and "Off-Sale" licensed establishments within the operation period of the grant.
 4. Shoulder Tap operations are used to detect and deter adult furnishers outside of a licensed business. Contractor agrees to conduct Shoulder Tap Operations at "Off-Sale" licensed locations to apprehend adults that are unaffiliated with the licensed businesses and who are purchasing alcohol for minors outside of the stores within the operation period of the grant.
 5. Informed Merchants Preventing Alcohol-Related Crime Tendencies (IMPACT) primary goal is to educate licensees on alcohol related laws to help reduce alcohol-related crime in and around licensed premises. Contractor agrees to conduct visits and inspections of licensed premises identifying areas of non-compliance at "On-Sale" and "Off-Sale" licensed locations within the operation period of the grant.

II. GOALS AND OBJECTIVES

1. Conduct at least four (4) Minor Decoy operations.
2. Conduct at least four (4) Shoulder tap operations, including the Statewide Shoulder tap operation.
3. Conduct at least two (2) IMPACT operations.
4. Conduct at least five (5) General enforcement operations.
5. Conduct at least four (4) Special Event operations.
6. Provide at least two (2) Roll Call/TRACE trainings.
7. Schedule and coordinate at least one (1) LEAD training.
8. Provide press/social media releases on grant enforcement activities.
 - A. To announce the start of the program;
 - B. At the conclusion of each Minor Decoy Operation has been held (to announce the number of licensed premises who sold to the minor decoy)
 - C. At the conclusion of each Shoulder Tap Operation has been held (to announce the number of adults arrested for purchasing alcoholic beverages for the decoy).
9. Contractor will fax (916) 419-2599 or email each press release to the Department's Public Information Officer (pio@abc.ca.gov) as soon as it is released.
10. Contractor agrees in all press releases, in addition to any credits the agency wishes to give, will include the following statement: "This project is part of the Department of Alcoholic Beverage Control's Alcohol Policing Partnership."

Contractor agrees to complete and submit monthly reports on a format designed and provided by the Department of Alcoholic Beverage Control due no later than 15th of the following month.

III. PROJECT REPRESENTATIVES

The project representatives during the term of this agreement will be:

Capitola Police Department
Leo Moreno, Police Captain
422 Capitola Avenue
Capitola, CA 95010
(831) 475-4242 x299
lmoreno@cityofcapitola.gov

Department of Alcoholic Beverage Control
Jennifer Delarosa, Supervising Agent in Charge
3927 Lennane Drive, Suite 100
Sacramento, CA 95834
jennifer.delarosa@abc.ca.gov

Direct all fiscal inquiries to:

Capitola Police Department
Esmeralda Gonzalez, Analyst
422 Capitola Avenue
Capitola, CA 95010
(831) 475-4242 x223
egonzalez@cityofcapitola.gov

Department of Alcoholic Beverage Control
Kristine Okino, Grant Coordinator
3927 Lennane Drive, Suite 100
Sacramento, CA 95834
(916) 312-4349
Kristine.okino@abc.ca.gov

EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

I. INVOICING AND PAYMENT

- For services satisfactorily rendered and upon receipt and approval of the invoice, the Department of Alcoholic Beverage Control agrees to pay a monthly payment of approved reimbursable costs per the Budget Detail of personnel overtime and benefits (actual cost) and/or allowable costs.
- Invoices shall clearly reference this contract number (26-APP03) and must not exceed the contract total authorized amount of \$57,881.00. Invoices are to be submitted by the 15th of every month, on the prescribed form designed by the Department of Alcoholic Beverage Control.

Submit to: Department of Alcoholic Beverage Control
Attn: Kristine Okino, Grant Coordinator
3927 Lennane Drive
Sacramento, California 95834

- Payment shall be made in arrears within 30 days from the receipt of an undisputed invoice. Nothing contained herein shall prohibit advance payments as authorized by Item 2100-101-3036, Budget Act, Statutes of 2026.
- Contractor understands in order to be eligible for reimbursement; cost must be incurred on or after the effective date of the project, July 1, 2026 and on or before the project termination date, June 30, 2027.
- Revisions to the "Scope of Work" and the "Budget Detail" may be requested by a change request letter submitted by the Contractor. If approved, the revised Grant Scope of Work and/or Budget Detail supersedes and replaces the previous grant and will initiate an amendment. No revisions can exceed allotted amount as shown on the Budget Detail. The total amount of the grant must remain unchanged.
- Contractor agrees to refund to the State any amounts claimed for reimbursement and paid to Contractor which are later disallowed by the State after audit or inspection of records maintained by the Contractor.
- Only the costs displayed in the Budget Detail are authorized for reimbursement by the State to Contractor under this agreement. Any other costs incurred by Contractor in the performance of this agreement are the sole responsibility of Contractor.
- Prior approval by the State in writing is required for the location, costs, dates, agenda, instructors, instructional materials, and attendees at any reimbursable training seminar, workshop or conference, and over any reimbursable publicity or educational materials to be made available for distribution. Contractors are required to acknowledge the support of the State whenever publicizing the work under this grant in any media.

II. BUDGET DETAIL

COST CATEGORY	TOTAL COST
A. Personnel Services	
<u>Overtime</u>	
Officer	\$33,506.00
Sergeant	\$11,204.00
Analyst	\$2,516.00
Benefits – SDI, Medicare and SSI	\$3,935.00
TOTAL Personnel	\$51,161.00
B. Operating Expenses (receipts required)	
Decoy Meals	\$720.00
TOTAL Operating	\$720.00
C. Equipment (receipts required, must be purchased by 12/31)	
Airpods, Radios, and PAS devices w/straws	\$3,000.00
TOTAL Equipment	\$3,000.00
D. Travel Costs	
Registration, hotel and per diem	\$3,000.00
TOTAL Travel	\$3,000.00
GRANT TOTAL	\$57,881.00

III. BUDGET CONTINGENCY CLAUSE

- It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

IV. PROMPT PAYMENT CLAUSE

- Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

General Terms and Conditions (GTC 02/2025)

EXHIBIT C

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.
8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. **RECYCLING CERTIFICATION:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).
10. **NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.)

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. **CERTIFICATION CLAUSES:** The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.
12. **TIMELINESS:** Time is of the essence in this Agreement.
13. **COMPENSATION:** The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.
14. **GOVERNING LAW:** This contract is governed by and shall be interpreted in accordance with the laws of the State of California.
15. **ANTITRUST CLAIMS:** The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

- a. The Government Code Chapter on Antitrust claims contains the following definitions:
- 1) "Public purchase" means purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
 - 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
- b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec.15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.
- c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
- d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.
16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:
- a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
 - b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.
18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code § 10353.
19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:
 - a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
 - b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)
20. LOSS LEADER: If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)
21. GENERATIVE AI DISCLOSURE OBLIGATIONS:
 - a. The following terms are in addition to the defined terms and shall apply to the Contract:
 - 1) "Generative AI (GenAI)" means an artificial intelligence system that can generate derived synthetic content, including text, images, video, and audio that emulates the structure and characteristics of the system's training data. (Gov. Code § 11549.64.)
 - b. Contractor shall immediately notify the State in writing if it: (1) intends to provide GenAI as a deliverable to the State; or (2), intends to utilize GenAI, including GenAI from third parties, to complete all or a portion of any deliverable that materially impacts: (i) functionality of a State system, (ii) risk to the State, or (iii) Contract performance. For avoidance of doubt, the term "materially impacts" shall have the meaning set forth in State Administrative Manual (SAM) § 4986.2 Definitions for GenAI.

- c. Notification shall be provided to the State designee identified in this Contract.
- d. At the direction of the State, Contractor shall discontinue the provision to the State of any previously unreported GenAI that results in a material impact to the functionality of the System, risk to the State, or Contract performance, as determined by the State.
- e. If the use of previously undisclosed GenAI is approved by the State, then Contractor will update the Deliverable description, and the Parties will amend the Contract accordingly, which may include incorporating the GenAI Special Provisions into the Contract, at no additional cost to the State.
- f. The State, at its sole discretion, may consider Contractor's failure to disclose or discontinue the provision or use of GenAI as described above, to constitute a material breach of Contract when such failure results in a material impact to the functionality of the System, risk to the State, or Contract performance. The State is entitled to seek any and all remedies available to it under law as a result of such breach, including but not limited to termination of the contract.

EXHIBIT D

SPECIAL TERMS AND CONDITIONS

1. Disputes: Any disputes concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Director, Department of Alcoholic Beverage Control, or designee, who shall reduce his decision in writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Department shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the State a written appeal addressed to the Director of the Department of Alcoholic Beverage Control. The decision of the Director of Alcoholic Beverage Control or his duly authorized representative for the determination of such appeals shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, Contractor shall proceed diligently with the performance of the contract and in accordance with the decision of the State.
2. Cancellation/Termination: This agreement may be cancelled or terminated without cause by either party by giving thirty (30) calendar days advance written notice to the other party. Such notification shall state the effective date of termination or cancellation and include any final performance and/or payment/invoicing instructions/requirements. No penalty shall accrue to either party because of contract termination.
3. Contract Validity: This contract is valid and enforceable only if adequate funds are appropriated in Item 2100-101-3036, Budget Act of 2026, for the purposes of this program.
4. Contractor Certifications: By signing this agreement, Contractor certifies compliance with the provisions of CCC 04/2017, Standard Contractor Certification Clauses. This document may be viewed at: <https://www.dgs.ca.gov/OLS/Resources/Page-Content/Office-of-Legal-Services-Resources-List-Folder/Standard-Contract-Language>
5. If the State determines that the grant project is not achieving its goals and objectives on schedule, funding may be reduced by the State to reflect this lower level of project activity and/or cancel the agreement.

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA ACCEPTING
GRANT FUNDING FROM THE DEPARTMENT OF ALCOHOL BEVERAGE CONTROL ALCOHOL
POLICING PARTNERSHIP GRANT PROGRAM TO SUPPORT ALCOHOL RELATED
ENFORCEMENT, EDUCATION, AND EQUIPMENT, AND AMENDING THE FISCAL YEAR 2026-27
BUDGET**

WHEREAS, the Department of Alcoholic Beverage Control (ABC) administers the Alcohol Policing Partnership Grant Program to assist local law enforcement agencies in reducing crime and public nuisance problems associated with problem alcoholic beverage outlets; and

WHEREAS, the Capitola Police Department has been awarded \$57,881.00 through the Department of Alcoholic Beverage Control Alcohol Policing Partnership Grant Program to support alcohol-related enforcement, education, prevention, and training during the Fiscal Year 2026-27 grant performance period; and

WHEREAS, the grant award provides funding for proactive enforcement operations, licensee and community education, officer training, and specialized equipment to reduce underage access to alcoholic beverages and alcohol-related crime; and

WHEREAS, the grant funds will be used for eligible personnel overtime and services, operating expenses, equipment, and travel costs, with no local matching funds required; and

WHEREAS, acceptance of the grant funding requires an amendment to the Fiscal Year 2026-27 Adopted Budget to recognize and appropriate the grant revenues and expenditures in accordance with the grant agreement; and

NOW, THEREFORE, BE IT HEREBY RESOLVED that the City Council of the City of Capitola hereby approves the Fiscal Year 2026-27 Budget Amendment, attached hereto as Exhibit A, and directs the Administrative Services Director to incorporate the budget amendment into the City's accounting records in accordance with generally accepted accounting practices. The City Manager, with assistance from the Administrative Services Director, shall ensure implementation of this Resolution and compliance with the grant requirements.

BE IT FURTHER RESOLVED that the City Council of the City of Capitola hereby amends the Fiscal Year 2026-27 Budget, including Exhibit A (Budget Amendment) to this Resolution, and directs the Administrative Services Director to enter the budget amendment into the City's accounting records in accordance with appropriate accounting practices. The City Manager, with the assistance of the Administrative Services Director, shall ensure compliance with 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 10th day of September 2026, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Margaux Morgan, Mayor

ATTEST:

Julia Gautho, City Clerk



Budget Adjustment Request

Date

09/01/2026

Requesting Department *

Police

Type of Adjustment

- ☐ Administrative
- ☒ Council

Item #
Council Date

Sept. 10, 2026

Council Approval

Revenues

Account Number	Account Description	Increase/Decrease
1000-20-20-000-3320.100	PD - State Grants	\$57,881.00

Total Revenues

\$57,881.00

Expenditures

Account Number	Account Description	Increase/Decrease
1000-20-20-000-4130.200	PD - Grant Funded OT	\$51,161.00
1000-20-20-4450.100	PD - Grant Funded Supplies	\$720.00
1000-20-20-000-4450.100	PD - Grant Funded Train/Travel	\$3,000.00
1000-20-20-000-4650.400	PD - Capital Outlay Equip	\$3,000.00

Total Expenditures

\$57,881.00

Net Impact

\$0.00

Purpose

Accept and appropriate FY 2026-27 Department of Alcoholic Beverage Control partnership grant.

Department Head Approval

Sarah Ryan

Finance Director Approval

Jim Malberg

City Manager Approval

Jamie Goldstein

Action History (all history times shown in Pacific Standard Time)

Submit	by Jim Malberg 9/1/2026 1:52:04 pm (Budget Amendment Request Submitted)
Approve	by Sarah Ryan 9/1/2026 1:55:20 pm (Routed to PD) • Sarah Ryan assigned the task to Sarah Ryan 9/1/2026 1:55:11 pm • The task was assigned to Leo Moreno, Pedro Zamora & Sarah Ryan 9/1/2026 1:52:04 pm
Approve (send to CM for approval)	by Jim Malberg 9/1/2026 1:56:32 pm (Routed to Finance Director) • Jim Malberg assigned the task to Jim Malberg 9/1/2026 1:56:20 pm • The task was assigned to Jim Malberg & Luis Ruiz 9/1/2026 1:55:21 pm
Approve (return to Finance for processing)	by Jamie Goldstein 9/4/2026 4:12:13 pm (Routed to CM for final approval) • The task was assigned to Jamie Goldstein 9/1/2026 1:56:33 pm

Capitola City Council

Agenda Report

Meeting: September 10, 2026

From: City Manager Department

Subject: Update on Additional Improvements at the Park at Rispin Mansion



Recommended Action: Receive an update on progress towards additional improvements at the Park at Rispin Mansion and ongoing efforts to raise funds through an engraved brick program.

Background: The City has advanced the Park at Rispin Mansion as a multi-year project to create a public park and event space on the historic Rispin Mansion property.

On July 28, 2022, the City Council approved plans, specifications, and budget for construction of the Rispin Mansion Park Project and authorized advertising for bids. On March 28, 2024, Council approved a \$949,000 contract with Betz Works to complete an amended project scope after the original bid solicitation received no bids.

On August 28, 2025, Council received a project update and provided direction to staff regarding additional hardscaping and landscaping outside the then-current construction scope. At that meeting, Council expressed support for developing a donation-based paver program and directed staff to proceed with a community paver program for dedication. Council also requested that staff reach out to community groups and develop a community fundraising approach for additional park enhancements.

On February 26, 2026, Council approved the updated landscape plan for the Park at Rispin Mansion, directed staff to develop a commemorative paver program, and authorized staff to negotiate a memorandum of understanding with Capitola Cares to coordinate fundraising efforts for additional park elements.

On April 23, 2026, Council authorized the City Manager to execute a memorandum of understanding with Capitola Cares for a fundraising campaign for additional elements at the Park at Rispin Mansion and approved an administrative policy regarding donor recognition at the park. The MOU (Attachment 1) states that Capitola Cares will fundraise to pay for the City's installation of an eight-pillar arbor and rehabilitation of the Park's water fountain. Also on April 23, Council directed staff to implement a community brick program to raise money for a full brick project, which is estimated at \$80,000; the sale of about 400 engraved bricks at \$200 each would cover that cost.

In addition, the City Council has previously allocated \$50,000 for a Rispin Reflecting Pool Project from the Public Art Fund. In July 2026 the City received a grant of \$30,000 from the National Endowment for the Arts, bringing the total budget for the public art project to \$80,000. A "Call to Artist" for the Rispin Reflecting Pool Project was published with a submission deadline of March 9, 2026. The City received more than 20 applications in response to the Call to Artist.

Discussion: In mid-August, Capitola Cares notified staff that the group had raised sufficient funding, based on initial estimates and an earlier bid, for the arbor. Staff prepared an informal bid package, with bids due September 1. The City received one bid with two different building options (tapered versus non-tapered columns); both cost estimates exceeded the initially assumed budget by at least \$40,000. As of September 4, the City has contacted Capitola Cares to determine if enough funding has been raised to pay the updated bid costs. City staff anticipates construction and installation of the arbor can be completed before the end of 2027, if sufficient funds are available within the next 30 days.

Staff continues to promote the engraved brick fundraiser authorized and discussed in prior Council actions. As previously reported to Council, the engraved brick program is intended to fund historically appropriate brick improvements in the walkways around the reflecting pool and sundial areas that are currently finished with decomposed granite. The program was designed with the goal of selling

approximately 400 engraved bricks at a cost of \$200 per brick. Currently, staff has reached approximately 15% of the sales goal. Staff is increasing outreach efforts to improve participation in the fundraiser and support completion of the brick program. However, based on current fundraising, staff may recommend a new sales goal of 150 bricks and installing bricks around the reflecting pool, not including additional walkway areas, to remain within budget.

Staff will continue fundraising and project coordination consistent with prior Council direction. If needed, staff may return at a future meeting with additional information regarding fundraising results, implementation timing, or any recommended adjustments to project phasing.

The Art and Cultural Commission has reviewed the initial art applications submitted for the Rispin Reflecting Pool Project. The Commission selected four artists to develop and present concept proposals at the upcoming September 8, 2026, Art and Cultural Commission meeting. Staff expects to return to the City Council with an Art and Cultural Commission recommendation in September or October of this year.

Fiscal Impact: None.

Attachments: None

Alignment with 2025-2029 Strategic Plan Priority: Healthy Families, Community, and Environment

Report Prepared By: Chloé Woodmansee, Assistant to the City Manager

Reviewed By: Jessica Kahn, Public Works Director; Nikki Bryant, Community Services and Recreation Director; Julia Gautho, City Clerk

Approved By: Jamie Goldstein, City Manager

Capitola City Council

Agenda Report

Meeting: September 10, 2026

From: Public Works Department

Subject: Chapter 8.40: Capitola Municipal Code



Recommended Action: Adopt an ordinance amending Chapter 8.40 of the Capitola Municipal Code to remove the expiration language in Section 8.40.150(G).

Background: On September 3, 2026, the City Council held a special meeting to receive a report on the City of Capitola's participation in a regional program to collect unwanted medications and sharps waste. The City originally adopted its local program through Ordinance No. 1006 on September 8, 2016.. Staff recommended adoption of an urgency ordinance to ensure that the City's existing collection program remain in effect, and the introduction of a regular ordinance to supersede the urgency ordinance once the regular ordinance became effective. Both the urgency and regular ordinances remove language referring to an expiration of the program, ensuring that the program remains in effect until the legislative body wishes to end it.

At the September 3, 2026 special meeting, the City Council adopted the urgency ordinance and introduced and waived the first reading of the regular ordinance.

A link to the report provided at the September 3, 2026 meeting is included as Attachment 2.

The adopted code is intended to protect public health, safety, welfare, and the environment by providing for the safe and orderly collection and disposal of drug and sharps waste. The ordinance remains the basis for the City's approved stewardship program.

MED-Project USA is a non-profit organization that develops, implements, and operates safe, free, and compliant product stewardship programs for the disposal of household medicine and sharps, to help drug and sharps manufacturers comply with state and local legislation regarding product disposal. Since 2017, MED-Project has provided the City and our neighboring jurisdictions with product stewardship plans and receptacles for safe disposal. The Capitola program currently provides medication and sharps disposal services through four participating pharmacies, mail-back options, and a medication collection receptacle at City Hall.

Discussion: At the end of August 2026, City staff was contacted by Santa Cruz County staff reporting the county-wide safe drug and sharps disposal ordinances expired this late summer and fall, and that neighboring cities and the County had experienced seizure of MED-Project collection facilities due to the expiration. Staff from the County encouraged the City to take action to maintain the City's program and keep drop off facilities available to all residents.

Staff reviewed the ordinance and governing statutes and found no apparent state preemption issue with keeping Chapter 8.40 in place, provided the ordinance remains in continuous effect.

Removing only the 10-year sunset provision in Section 8.40.150(G) would not repeal Chapter 8.40. Instead, deleting that sentence would keep the same 2016 ordinance continuously in force. Under that approach, the City's program would remain a pre-2018 local program rather than a new ordinance subject to state preemption.

Fiscal Impact: There is no direct fiscal impact associated with removing the expiration language. Chapter 8.40 requires producers, groups of producers, or stewardship organizations to pay administrative and operational costs associated with the product stewardship program, including City administration and enforcement costs as provided in the chapter.

Attachments:

1. Proposed Ordinance
2. September 3, 2026, Staff Report: <https://mccmeetings.blob.core.usgovcloudapi.net/capitolacapubu/MEET-Packet-f68a21b6877d4620a598bbaed2c257fd.pdf>

Alignment with 2025-2029 Strategic Plan Priority: Accountable Government; Community Safety; Healthy Families, Community, and Environment

Report Prepared By: Jessica Kahn, Public Works Director

Reviewed By: Julia Gautho, City Clerk; Marc Tran, City Attorney

Approved By: Jamie Goldstein, City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF CAPITOLA AMENDING SECTION 8.40.150 OF THE CAPITOLA MUNICIPAL CODE TO REMOVE THE SUNSET PROVISION FROM CHAPTER 8.40 (CAPITOLA SAFE DRUG AND SHARPS DISPOSAL)

WHEREAS, Article XI, Section 7 of the California Constitution authorizes the City of Capitola (the “City”) to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, on September 8, 2016, the City Council adopted Ordinance No. 1006, which added Chapter 8.40 (“Capitola Safe Drugs and Sharps Disposal”) to the Capitola Municipal Code, establishing a producer-funded product stewardship program for the safe collection and disposal of unwanted drugs and sharps within the City; and

WHEREAS, subsection (G) of Section 8.40.150 of the Capitola Municipal Code provides that “[t]his chapter shall be in effect for a period of ten (10) years following enactment,” and, by operation of that provision, Chapter 8.40 will expire immediately unless the sunset provision is removed; and

WHEREAS, the California Pharmaceutical and Sharps Waste Stewardship program (Senate Bill 212, Stats. 2018, ch. 1004), codified at Public Resources Code section 42036.2, does not apply to a jurisdiction that is subject to a local drug and sharps stewardship program pursuant to an ordinance that took effect before April 18, 2018, and provides that such a pre-existing local program may continue in operation; and

WHEREAS, Chapter 8.40 took effect before April 18, 2018, and the City’s local program is therefore exempt from the state program for so long as Chapter 8.40 remains continuously in effect; and

WHEREAS, the amendment made by this Ordinance is narrow, removing only the sunset provision and leaving the remainder of Chapter 8.40 in full force and effect, and is intended to keep the existing pre-2018 local program continuously in effect rather than to enact a new program; and

WHEREAS, a lapse of Chapter 8.40 would result in the removal of manufacturer-funded sharps collection kiosks currently available to City residents, materially reducing safe disposal options and increasing the risk of improper disposal of drugs and sharps, accidental poisoning, needlestick injury, substance misuse, and environmental contamination, as more fully described in the recitals to Ordinance No. 1006; and

WHEREAS, the City Council has concurrently adopted an urgency ordinance removing the same sunset provision effective immediately, and adopts this Ordinance through the ordinary legislative process to provide a permanent amendment of the Capitola Municipal Code; and

WHEREAS, the City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines (Title 14, California Code of Regulations) section 15307 and the common-sense exemption in section 15061(b)(3), consistent with the environmental findings made in connection with Ordinance No. 1006, because it can be seen with certainty that removing the sunset provision to continue an existing regulatory program will not have a significant effect on the environment.

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

Section 1. Findings. The City Council of the City Capitola finds and declares that the Recitals set forth above are true and correct and are incorporated herein by this reference.

Section 2. California Environmental Quality Act. The City Council finds, for the reasons stated in the recitals, that adoption of this Ordinance is exempt from CEQA, and directs staff to file a Notice of Exemption if appropriate.

Section 3. Amendment to Section 8.40.150(G). Subsection G of Section 8.40.150 of the Capitola Municipal Code, which reads in its entirety, “This chapter shall be in effect for a period of ten (10) years following enactment,” is hereby deleted in its entirety. All other provisions of Section 8.40.150 and of Chapter 8.40 of the Capitola Municipal Code remain unchanged and in full force and effect.

Section 4. Severability. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 5. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption by a majority vote of the City Council.

Section 6. Publication. The City Clerk shall cause this ordinance, or a summary thereof, to be posted and/or published in the manner required by law.

INTRODUCED at a special meeting of the City Council of the City of Capitola on the ___ day of ___, 2026, and **PASSED AND ADOPTED** at a regular meeting of the City Council on the ___ day of ___, 2026, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Morgaux Morgan, Mayor

ATTEST: _____
Julia Gautho, City Clerk

APPROVED AS TO FORM:

Marc Tran, City Attorney

Capitola City Council

Agenda Report

Meeting: September 10, 2026

From: Community and Economic Development Department

Subject: Capitola Wharf Status Update



Recommended Action: Receive an update regarding the Request for Proposals for a restaurant and commercial marketplace project on the Capitola Wharf and provide direction to staff regarding the next steps for future uses on the Wharf.

Background: In 2024, the Wharf Resiliency and Public Access Project was completed. The project addressed critical infrastructure needs, including reopening and widening the Wharf, replacing failing pilings and decking, and constructing new restroom facilities.

Severe storms in December 2023 caused substantial damage to Wharf structures, resulting in the removal of two commercial structures. In February 2024, the City Council authorized demolition of the damaged buildings and directed staff to initiate a long-term planning effort for the Wharf (Wharf Master Plan).

The City retained Fuse Architecture to assist with outreach, planning, and conceptual design. In spring 2024, seven concepts for the Wharf were developed and presented to the public, stakeholders, and City Council. Public outreach included a survey with more than 1,000 participants, a community meeting, and engagement with local boards, commissions, and stakeholder groups.

On June 26, 2025, the City Council received public input on the concepts and directed staff to proceed with a hybrid approach, combining elements of Option 6 (Fishing Concession and Flexible Market Space) and Option 7 (Permanent Structures including a Restaurant and Fishing Concession).

On April 23, 2026, the City Council received an update on the Wharf Master Plan and directed staff to release a request for proposals (RFP) seeking a qualified private entity to construct and operate the marketplace through a lease agreement with the City. Consistent with City Council direction, staff released an RFP seeking a private partner to design, finance, construct, operate, and maintain a marketplace incorporating restaurant and fishing concession uses on the Wharf. The RFP explained that the Wharf Master Plan is conceptual in nature.

The RFP was initially open through July 31, 2026. Staff contacted restaurants along the California coast to make them aware of the opportunity and encourage participation in the RFP process. The initial deadline generated one letter of interest with a request for more time. Staff extended the RFP deadline through August 31, 2026, and conducted additional outreach to potential restaurant operators.

At the conclusion of the extended RFP period, the City received one letter of interest. That interested party indicated that they are not prepared to move forward with the project at this time but may consider submitting a proposal in approximately one to two years if the opportunity remains available.

Accordingly, the RFP did not result in a proposal from a private partner prepared to undertake the full permanent marketplace and restaurant concept at this time.

Discussion: The lack of a proposal does not necessarily indicate a lack of interest in the Wharf as a commercial destination. Rather, the scope of the RFP requires a private partner to assume the substantial time commitment and costs associated with designing, permitting, financing, constructing, and operating a permanent commercial structure on the Wharf. While one potential developer expressed potential future interest, the City's experience with the RFP suggests that the scale and cost of the permanent

development envisioned in the Wharf Master Plan may make it difficult to attract a private operator under the current market conditions.

As previously mentioned, extensive public outreach was previously conducted on the future uses on the Wharf including community meetings, a survey, and input from boards and commissions and stakeholders. The results were presented on June 26, 2025, and are available as Attachments 1 and 2. The results consistently showed support for a food and beverage sales on the Wharf in different formats, including mobile food vendor, flexible market space, and permanent structures.

At this time, staff is seeking direction from Council regarding potential future uses on the Wharf. Amongst the options for Council to consider:

1. Maintain the existing fishing concession and no longer seek proposals for food and beverages on the Wharf.
2. Maintain the existing fishing concession and issue a new RFP to seek one or more smaller scale food and beverage concession(s) in less expensive or temporary structure(s), such as a mobile vendor or prefabricated structure(s).
3. Maintain the existing fishing concession, issue new RFP to seek one or more smaller scale food and beverage concession(s) in less expensive or temporary structure(s) for a limited lease period, and extend the current RFP for one year.
4. Provide other direction regarding the implementation of the Wharf Master Plan.

For options that do not leave open the possibility of a new permanent restaurant, staff suggests that Council direct staff to prepare a site plan for a public restroom/personal rescue watercraft storage on the head of the Wharf for potential future grant funding.

Fiscal Impact: There is no fiscal impact associated with the recommended action.

Attachments:

1. Wharf Master Plan
2. Public Outreach Results

Alignment with 2025-2029 Strategic Plan Priority: Economic Opportunity; Healthy Families, Community, and Environment; Sustainable Infrastructure

Report Prepared By: Katie Herlihy, Community and Economic Development Director

Reviewed By: Julia Gautho, City Clerk and Marc Tran, City Attorney

Approved By: Jamie Goldstein, City Manager

CAPITOLA WHARF

MASTER PLAN | CITY COUNCIL MEETING: 01
SURVEY RESULTS & DATA ANALYSIS



+ **fuse** 

INTRODUCTIONS:

Project Team :

Fuse Architecture

Daniel Townsend
Daniel Gomez
Courtney Christiansen

Moffatt & Nichol Engineering

Brad Porter

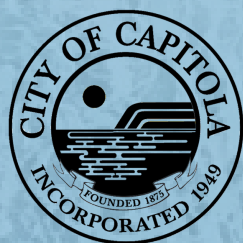
City of Capitola Staff

Katie Herlihy
Jamie Goldstien
Chloe Woodmansee
Jessica Kahn
Kailash Mozumder
Robin Woodman

**&
Capitola City Council**

IMAGE REMOVED

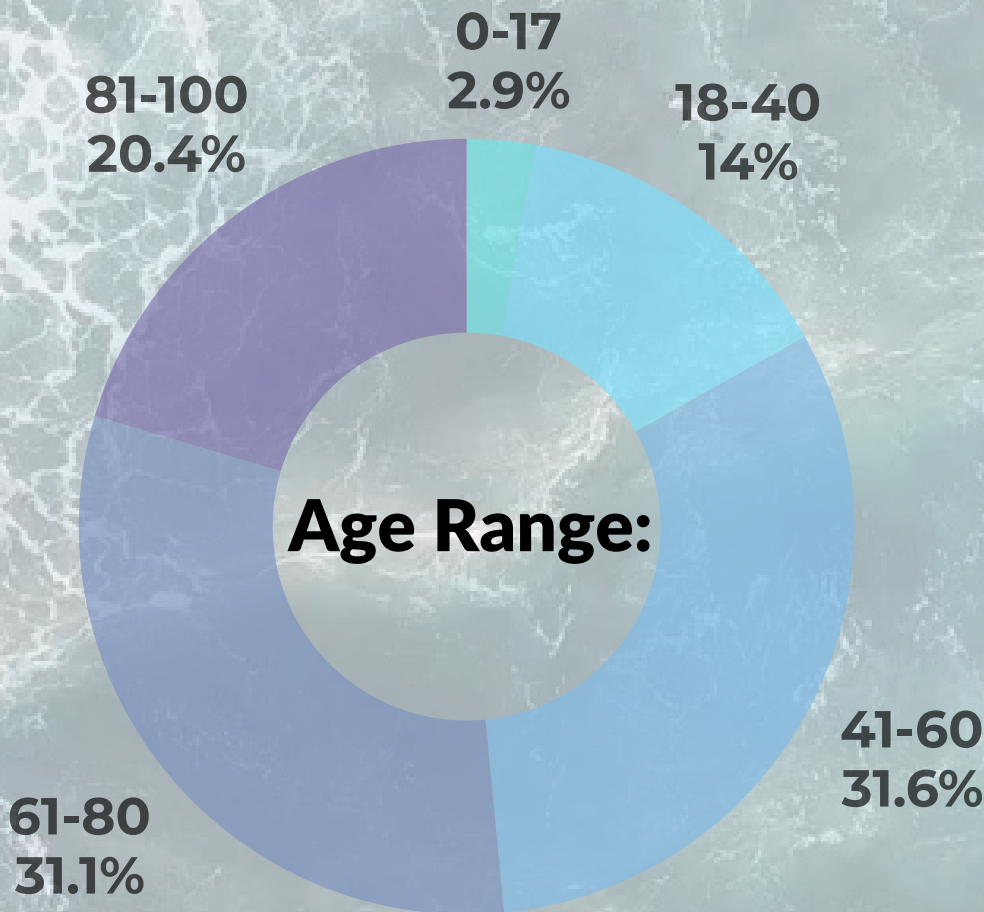
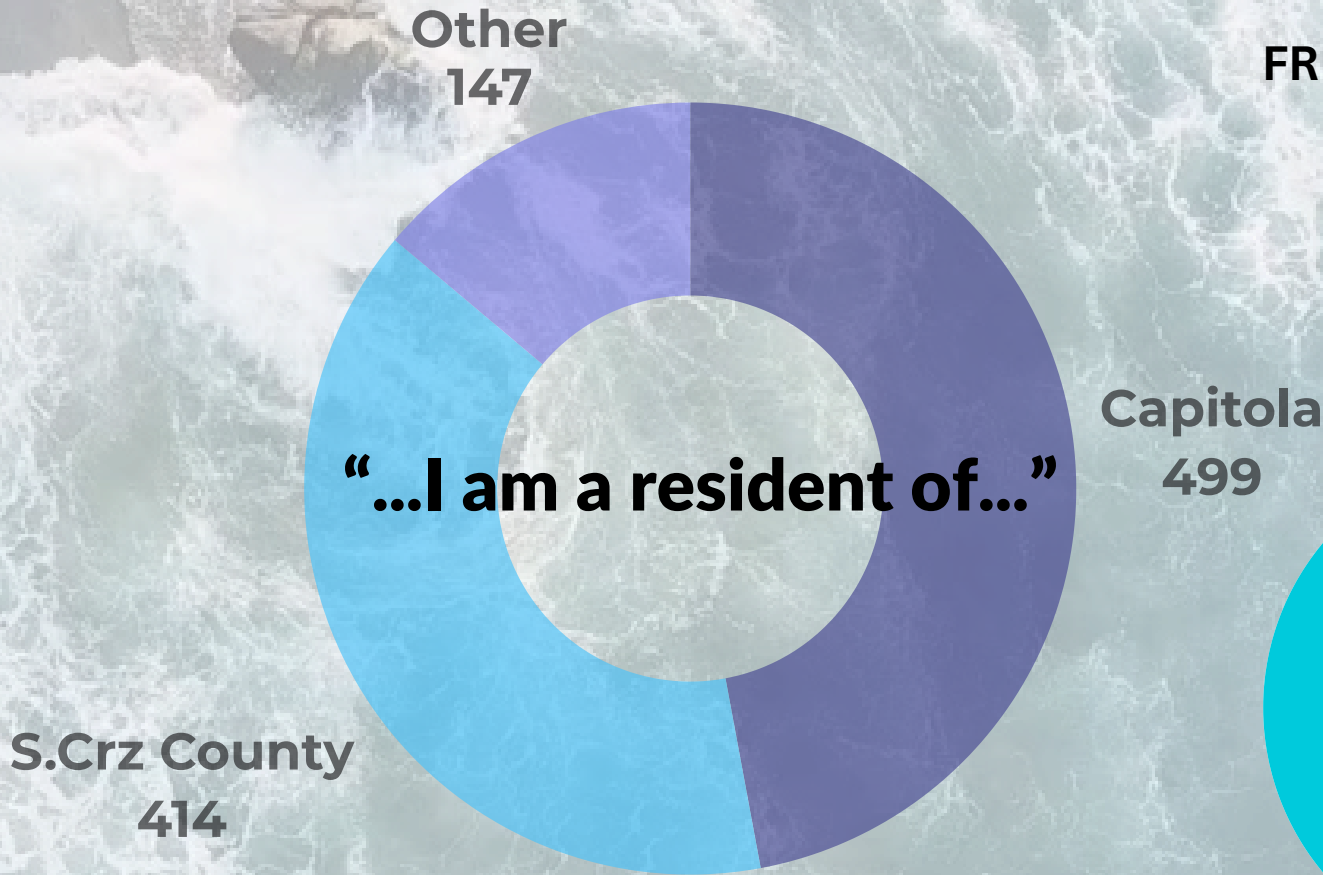
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GENERAL
DEMOGRAPHIC
INFORMATION:



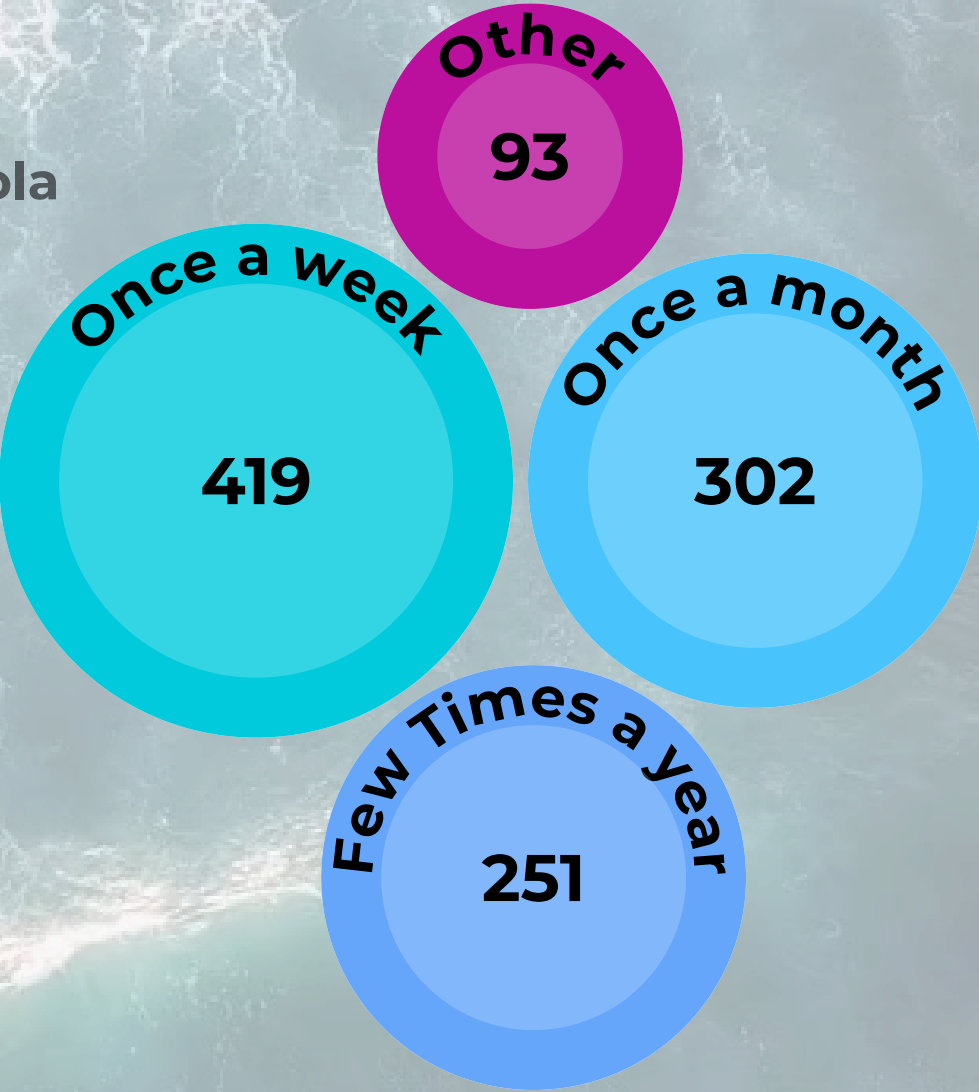
+ fuse 

1067
Survey
Responses

Total number of respondents
gathered over 31 days during the
month of May 2025



FREQUENCY OF WHARF VISITS



84.81%

899 (84.81%) Respondents claim
to have visited the Capitola
Wharf since it reopened in 2024.

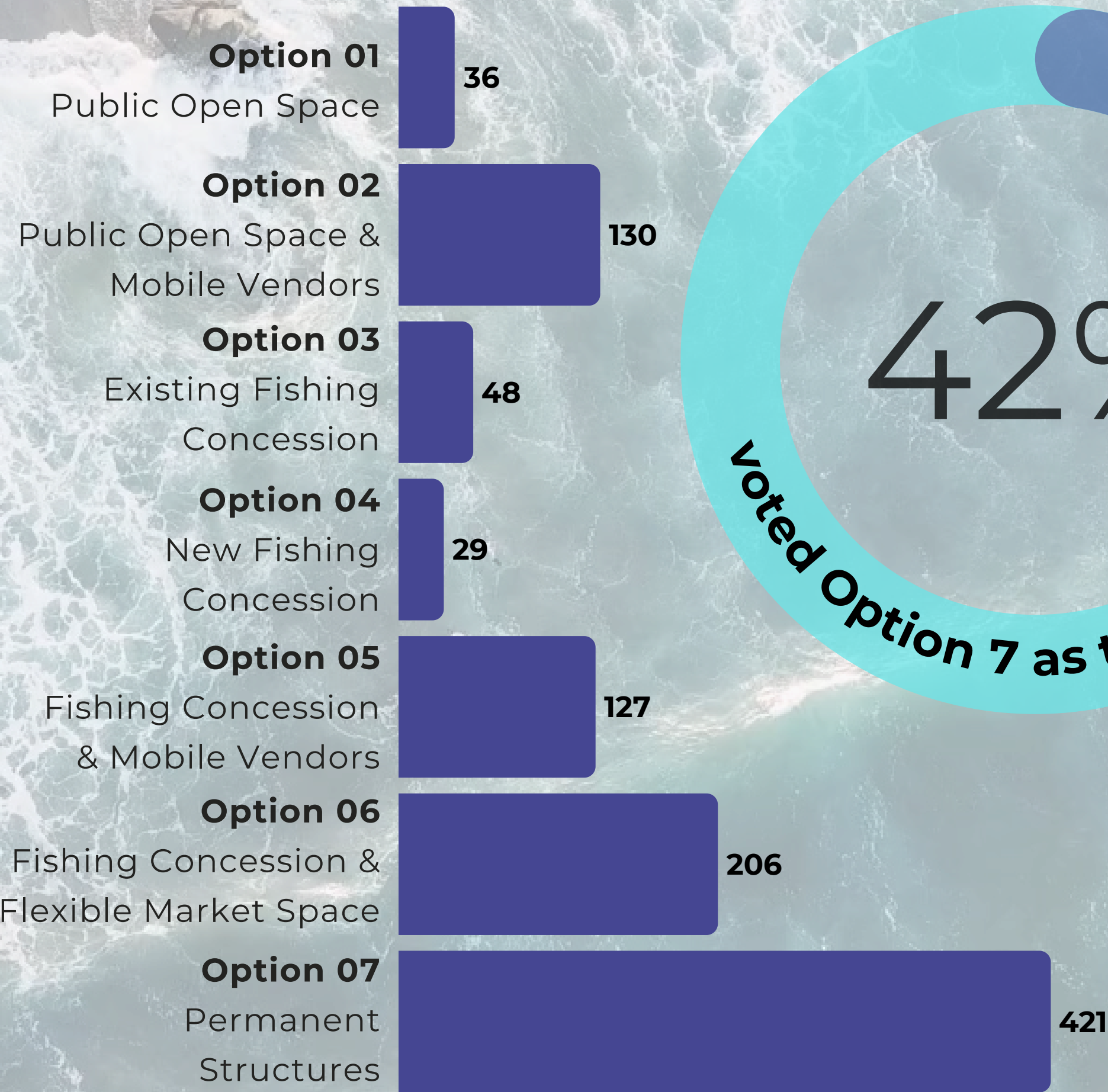
SURVEY OVERALL RESULTS:



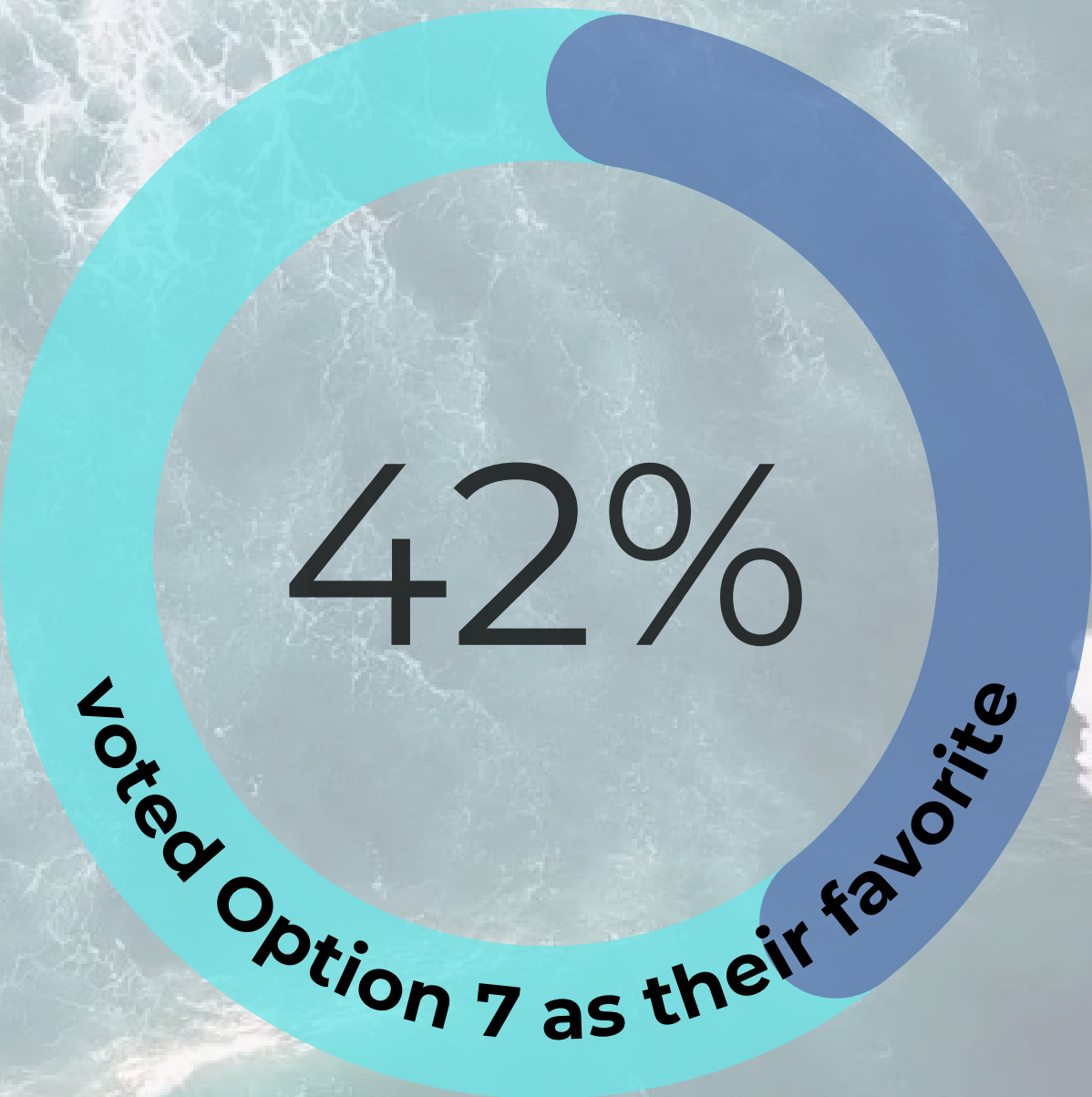
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1067 Survey Responses

Total number of respondents gathered over 31 days during the month of May 2025



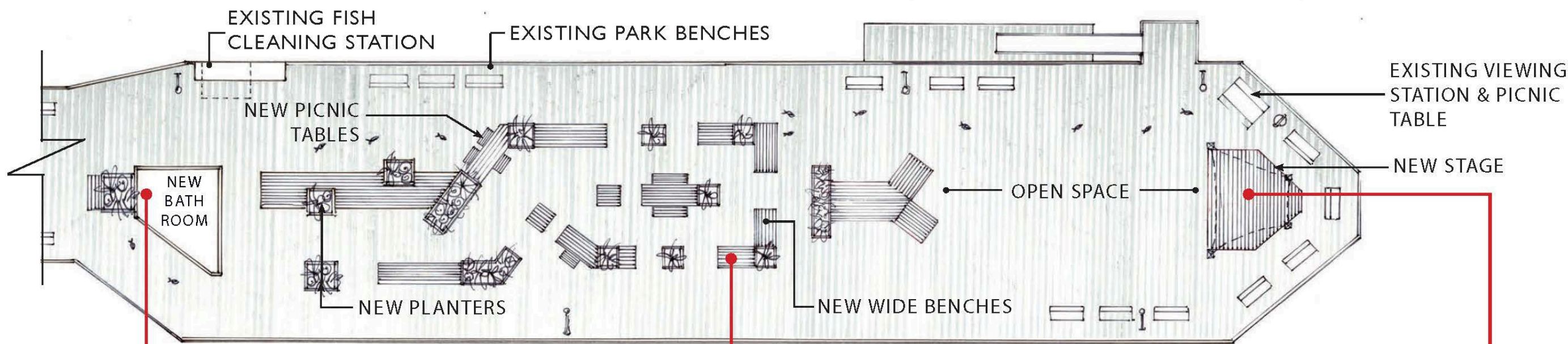
NUMBER OF RESPONDENTS



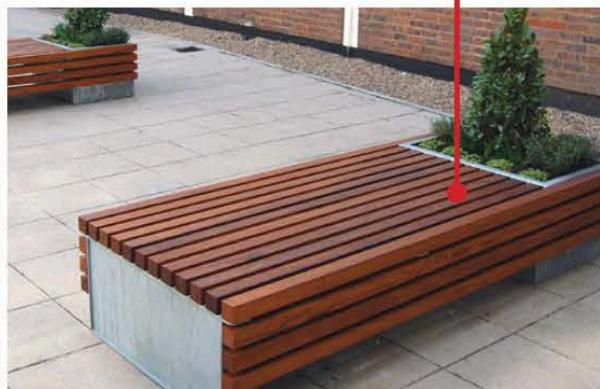
OPTION 01 | OPEN SPACE

- A. Wharf With All Areas Open To The Public. No Leased Space.
- B. Public Gathering Infrastructure Including: Benches (13) / Planters (14) / New Stage (1) / Three Picnic Tables (3)
- C. Additional Public Bathroom
- D. Remove Existing Boat Hoist, Rental Boats & Fishing Concession Building
- E. Keep Existing Park Benches (40), Picnic Tables (4), Viewing Stations (4)
Fish Cleaning Station (1), Bathroom near entrance (3) & Bike Racks (10)

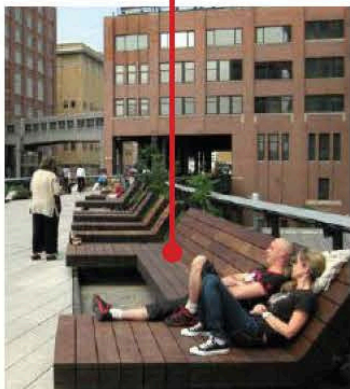
TOTAL ESTIMATE: 950K - 1.1M
Demolish Hoist: (+/-) \$60k
Enhanced Public Space / Park: (+/-) \$450k
Public Restroom: (+/-) \$600k
Any Necessary Engineering: T.b.d.



PUBLIC BATHROOMS



WIDE BENCHES & PLANTERS



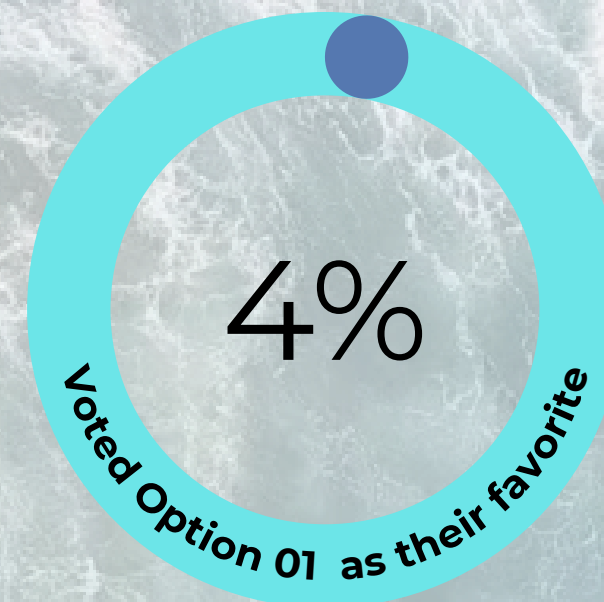
STAGE

Option 01 Survey Results

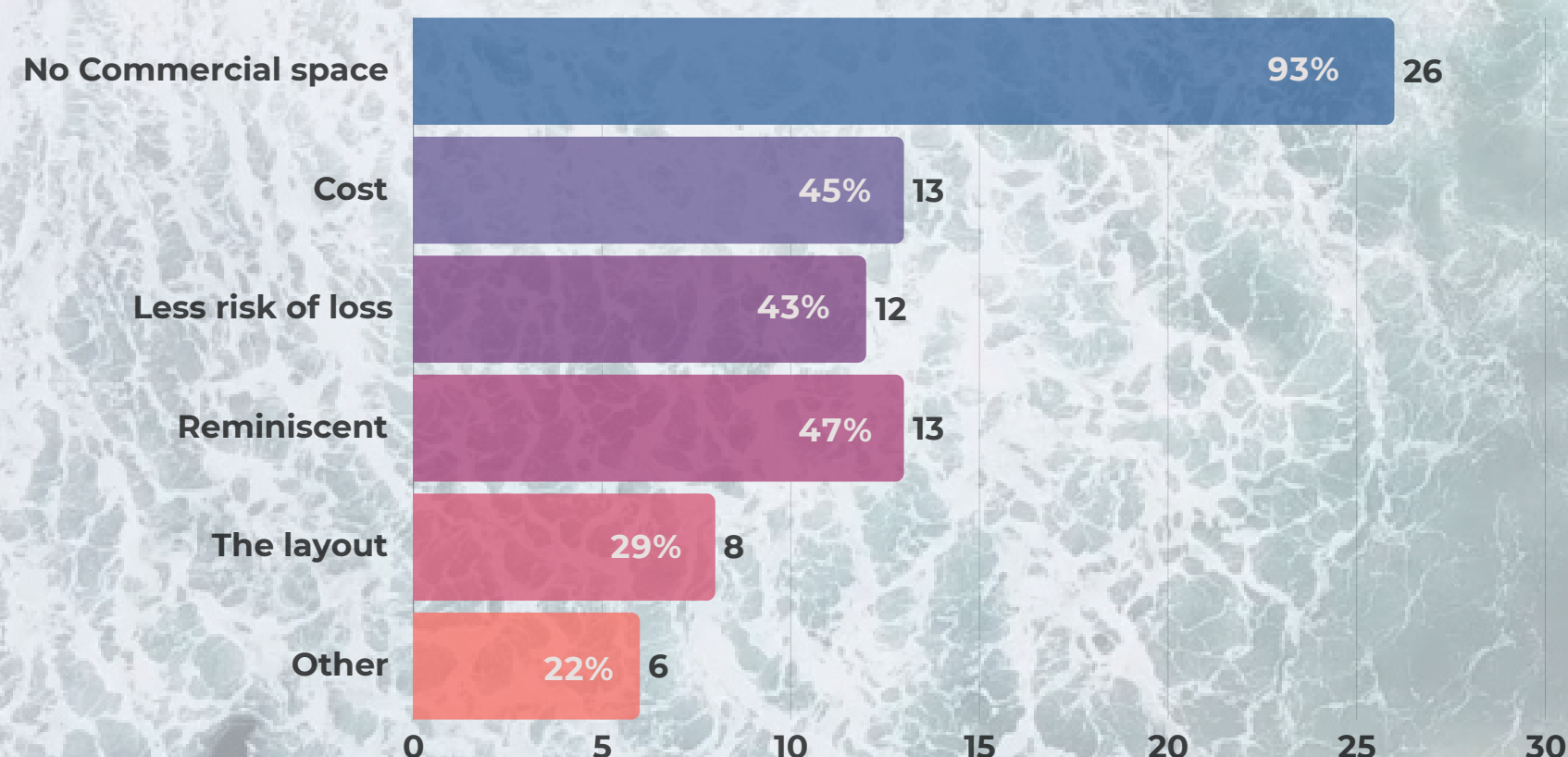
Option 01 / Public Open Space - Overall Tally:

36 TOTAL VOTES / 3.61%

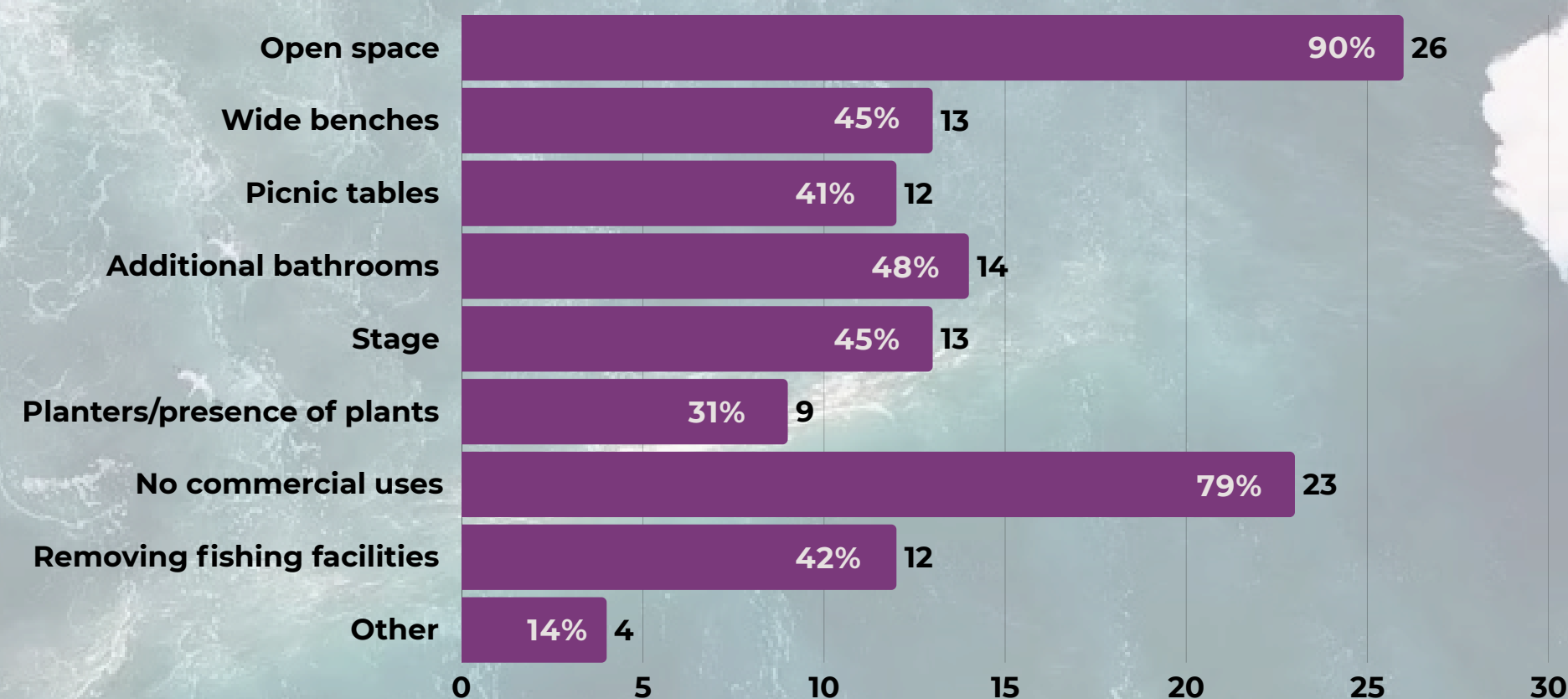
...Out of 1067 total votes, 36 people chose Option 01 as their favorite option.



Why is this your favorite?



Favorite Features



Suggested Additions:

- Shade structure
- Lifeguard station
- Seasonal Lighting

71.43%

...Of respondents would support keeping the hoist and adding a Marine Rescue Watercraft Storage area

Most Disliked Feature:

- The Stage
- The Presence of Plants
- Any new benches

OPTION 02 | OPEN SPACE & MOBILE VENDORS

A. Up To Four (4) Mobile Vendors For Variety Of Uses

(Examples: Food/Drink/Mobile Shop/Rental - Kayaks, Paddle Boards, Etc.)

B. Public Infrastructure: New Wide Benches (5) / New Picnic Tables (5) / New Stage (1)

C. Additional Public Restroom

D. Remove Existing Boat Hoist / Mooring Bouys & Fishing Concession Building

E. Keep Existing Park Benches (40), Picnic Tables (4), Viewing Stations (4)

Fish Cleaning Station (1), Bathroom near entrance (3) & Bike Racks (10)

TOTAL ESTIMATE: 1.5M - 1.6M

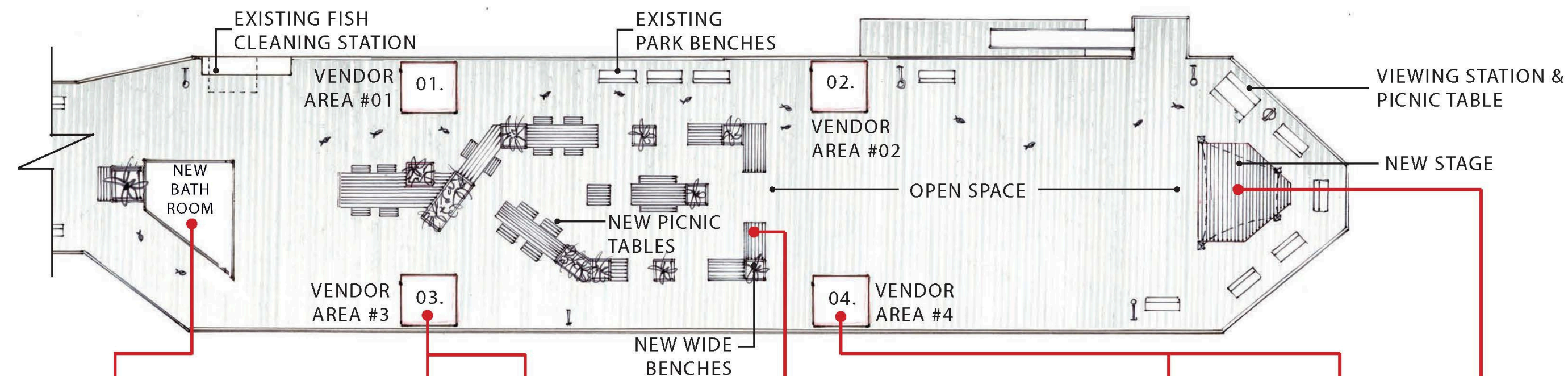
Demolish Hoist: (+/-) \$60k

Enhanced Public Space / Park: (+/-) \$450k

Public Restroom: (+/-) \$600k

Mobile Vendors: (+/-) \$120k / Each (\$480k total)

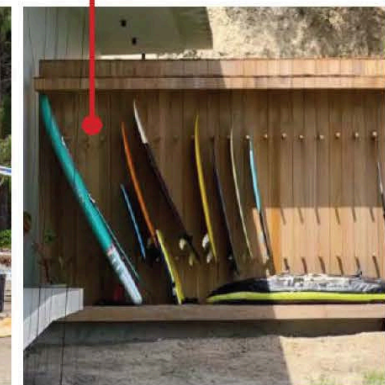
Any Necessary Engineering: T.b.d.



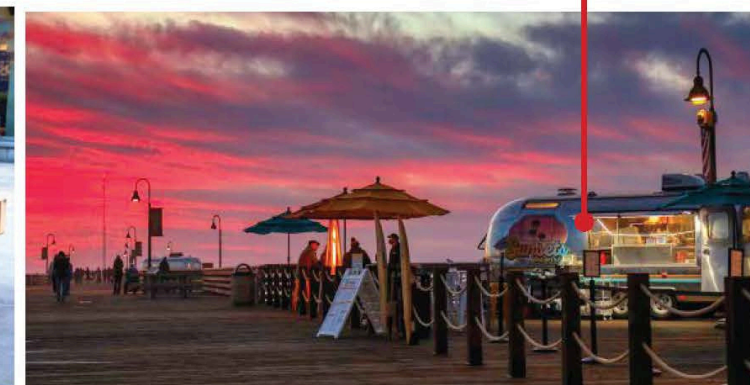
PUBLIC BATHROOM



MOBILE SURF / KAYAKS RENTALS



WIDE BENCHES & PLANTERS



MOBILE VENDORS



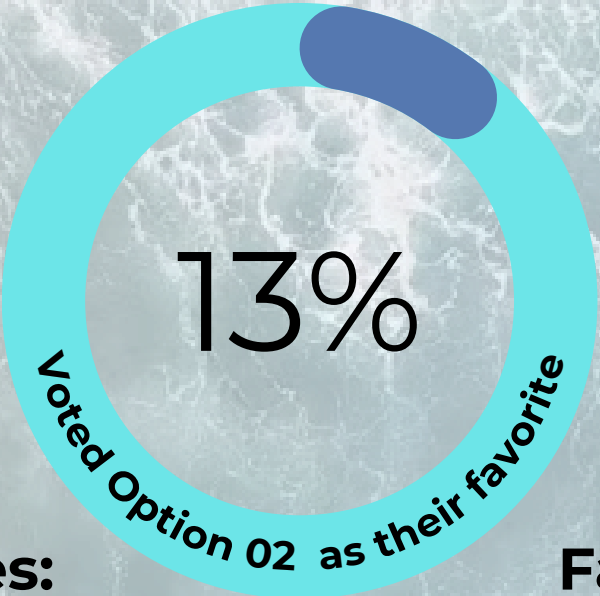
STAGE

Option 02 Survey Results

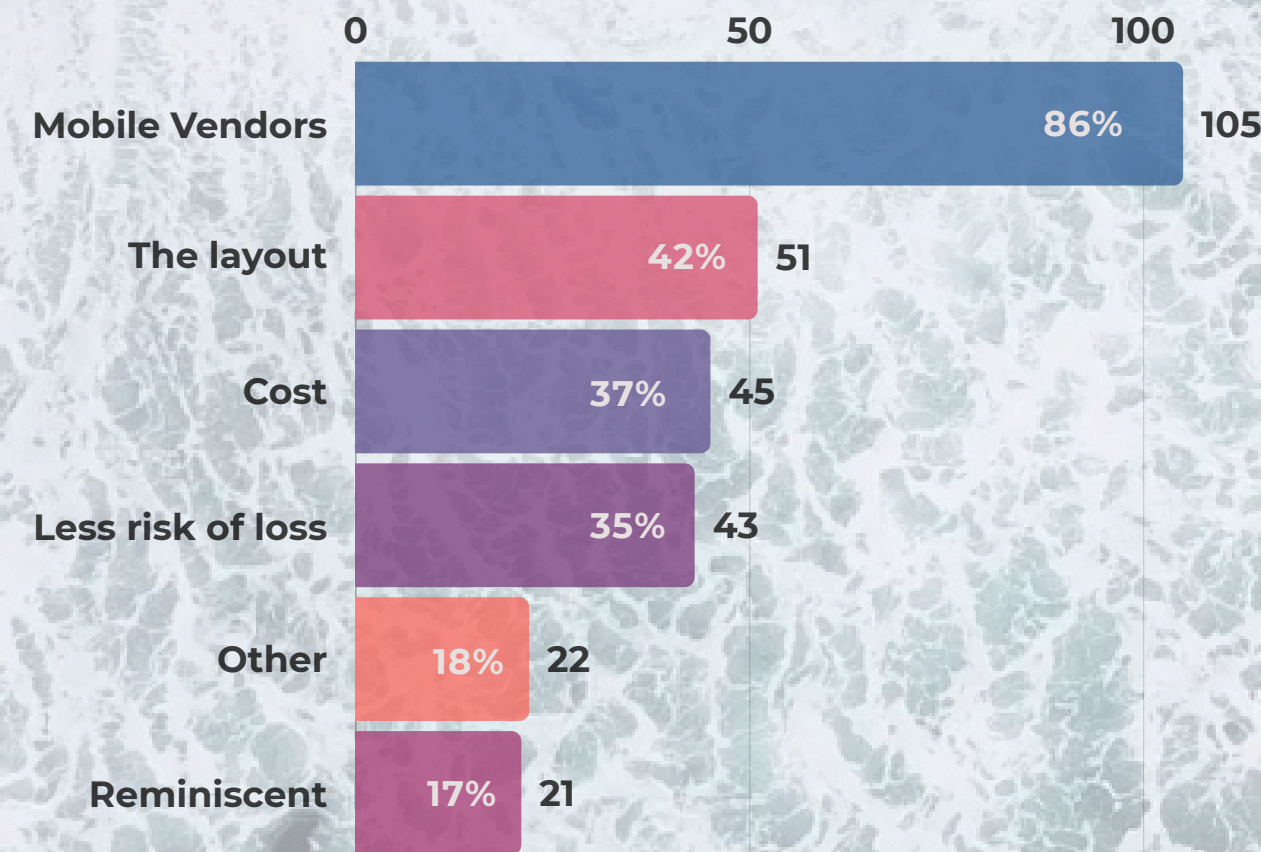
Option 02 / Open Space & Mobile Vendors - Overall Tally:

130 TOTAL VOTES / 13.04%

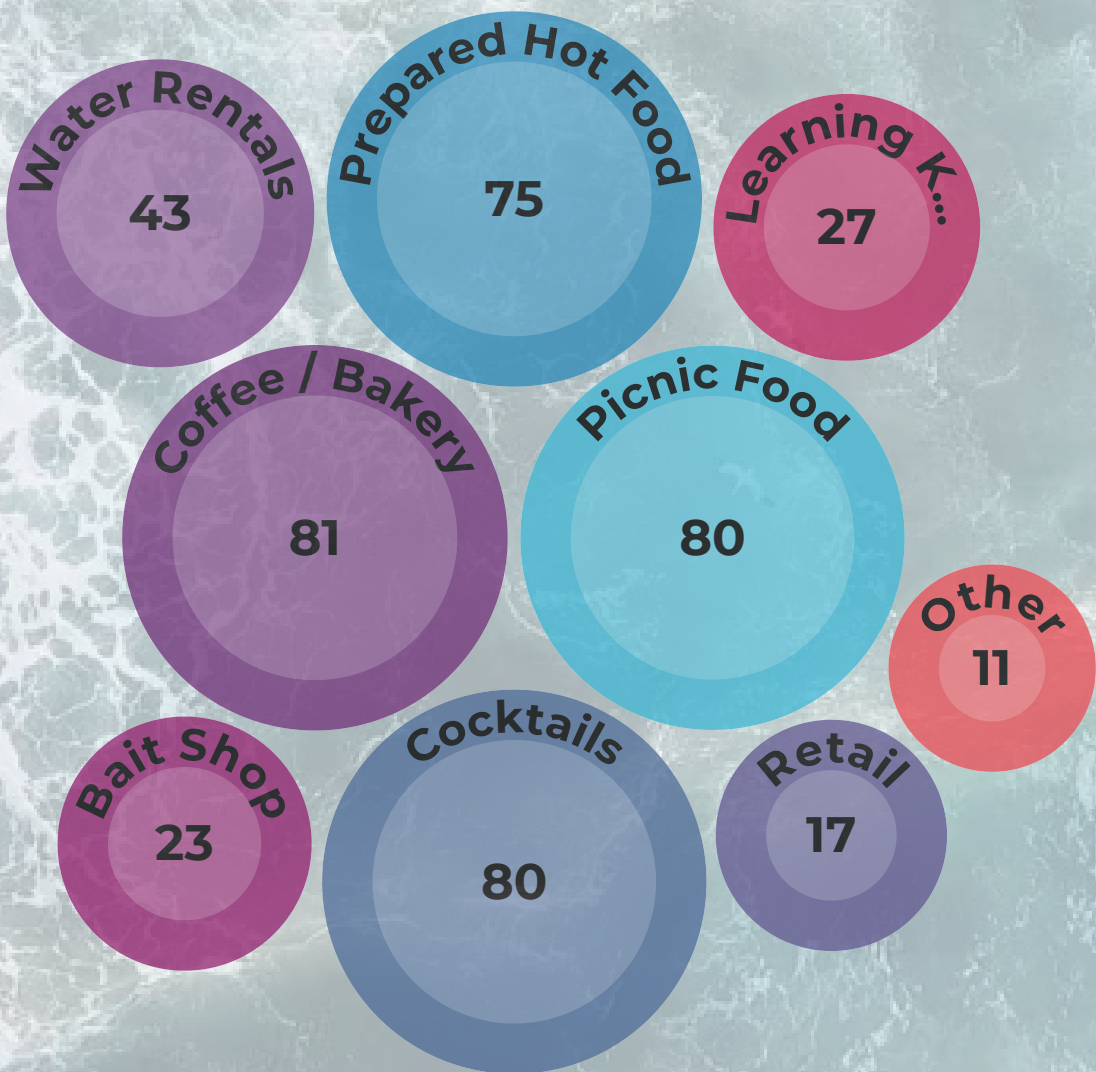
...Out of 1067 total votes, 130 people chose Option 02 as their favorite option.



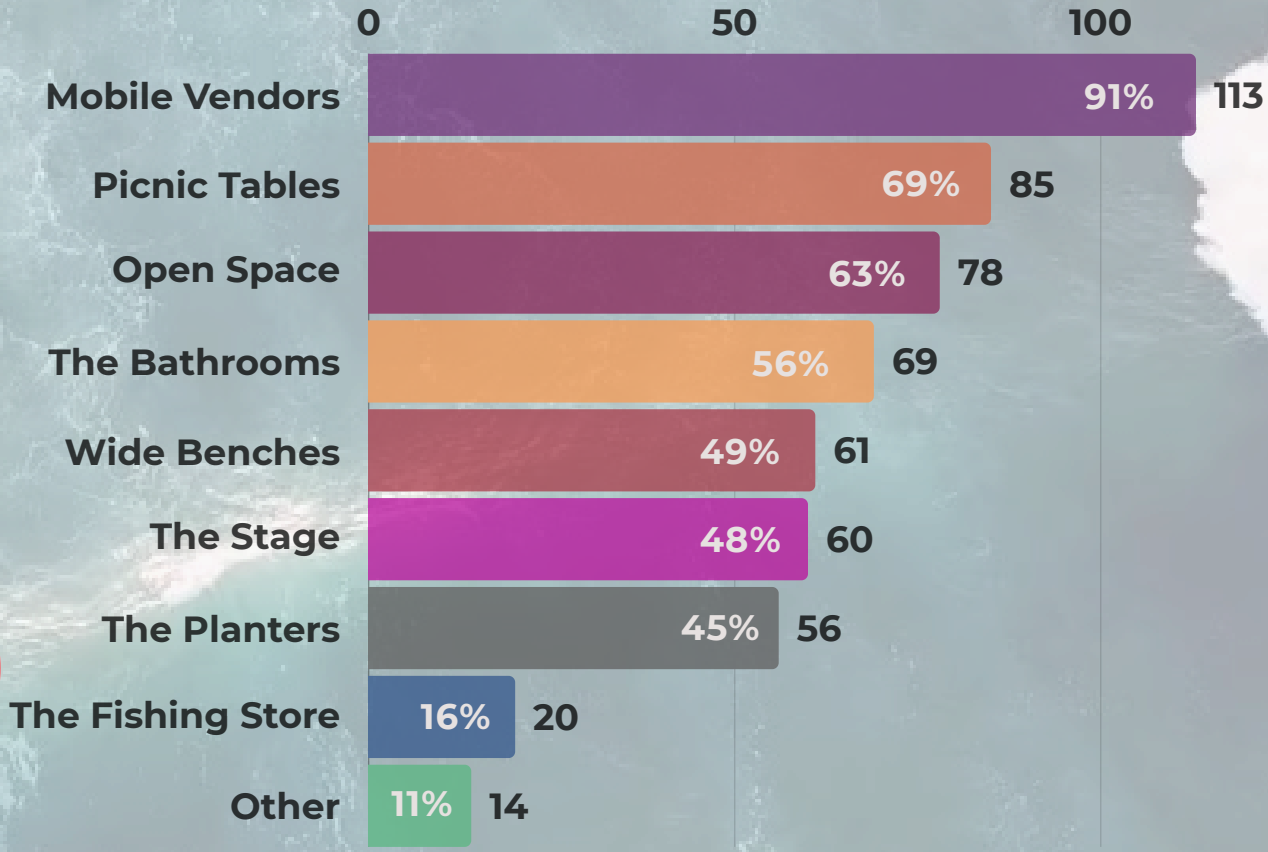
Why is this your favorite?



Desired Vendor Services:



Favorite Features



Suggested Additions:

- Shade structure
- Lifeguard station
- Seasonal Lighting

79.67%

...Of respondents would support keeping the hoist and adding a Marine Rescue Watercraft Storage area.

Most Disliked Feature:

- Any Fishing Services
- The Stage
- Any Plants

OPTION 03 | EXISTING FISHING CONCESSION

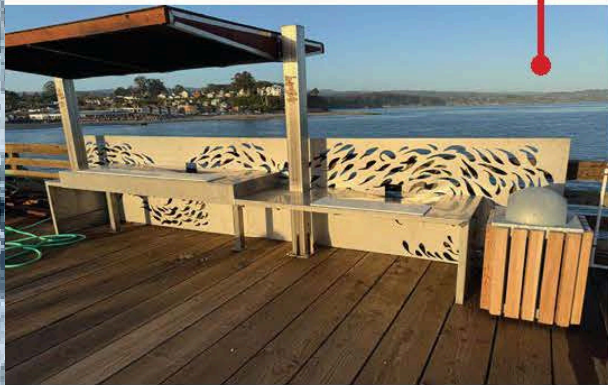
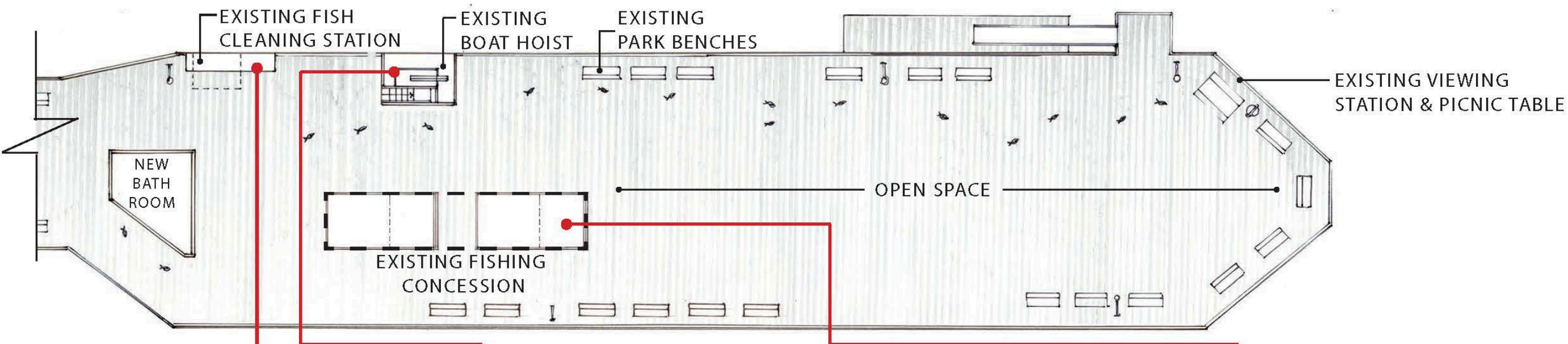
- A. Keep Existing Fixed Low-Cost Structure For Fishing Concession With Boat Rental / Uncovered Boat Storage & Repair Area / Mooring Buoys, Dingy Service And Hoist.
 - B. Additional Public Restroom
 - C. Keep Existing Benches (40), Picnic Tables (4), Viewing Station (4), Fish Cleaning Station (1), Bathrooms Near the Entrance (3), Bikeracks (10) & Boat Hoist (1)
- *** Option 03 | Please Note: ***

TOTAL ESTIMATE: (+/-) \$600k

Public Restroom: (+/-) \$600k

Any Necessary Engineering: T.b.d.

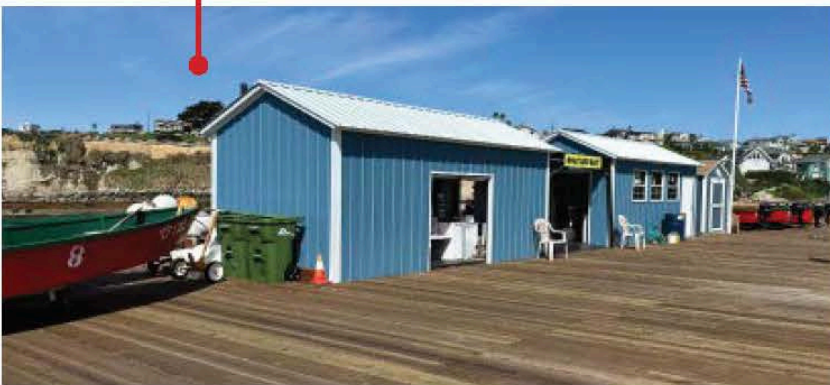
Wharf Is Shown As It Is Today With A Fishing Concession & No Other Leased Space, A Public Bathroom Is Added



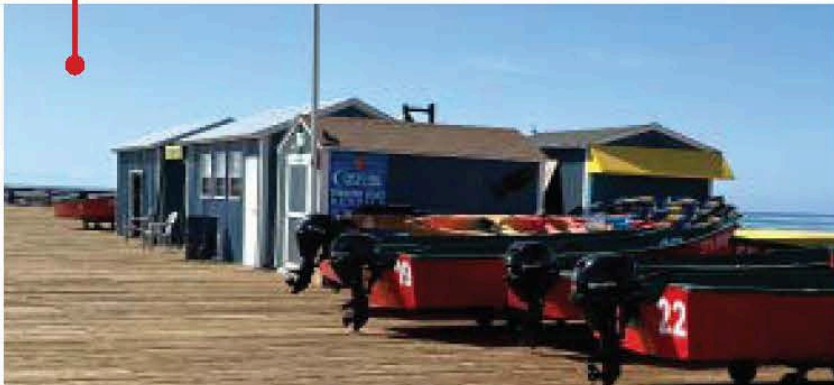
FISH CLEANING STATION
(SHOWN IN PROGRESS)



BOAT HOIST



FISHING CONCESSION



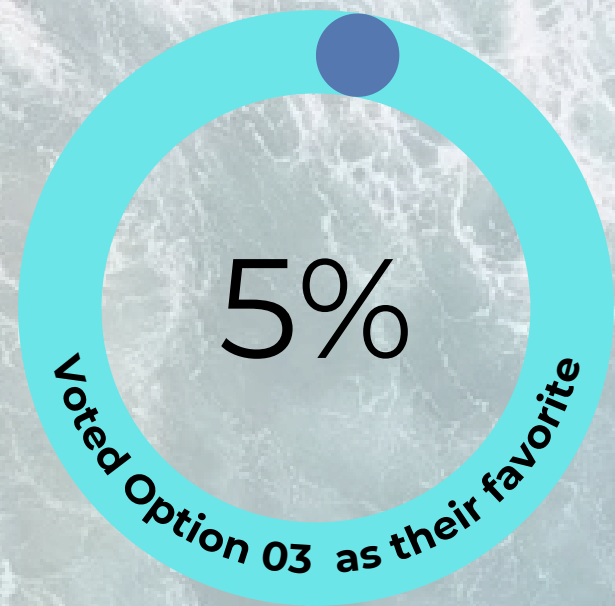
RENTAL BOAT STORAGE

Option 03 Survey Results

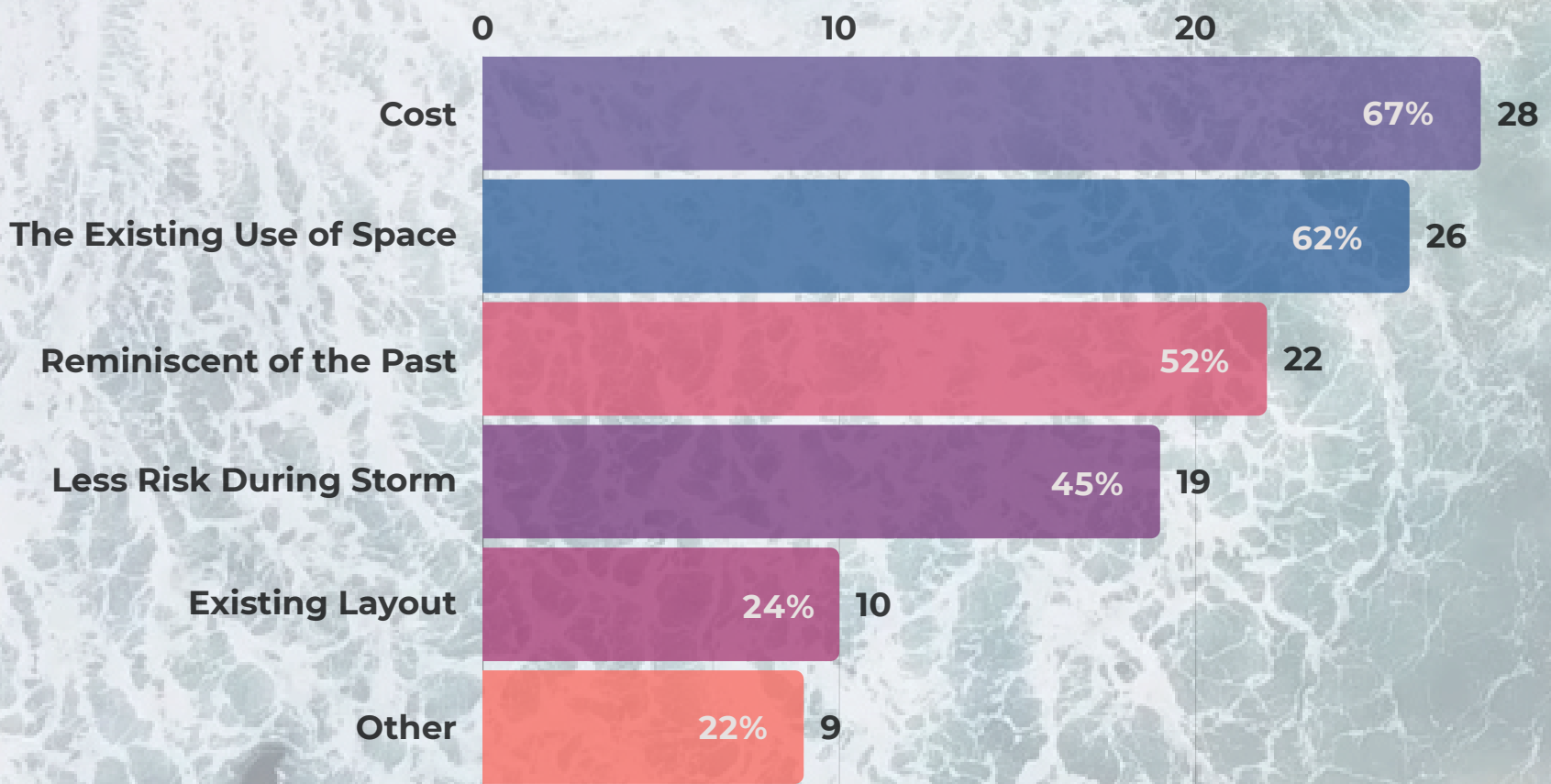
Option 03 - Existing Fishing Concession / Overall Tally:

48 TOTAL VOTES / 4.81%

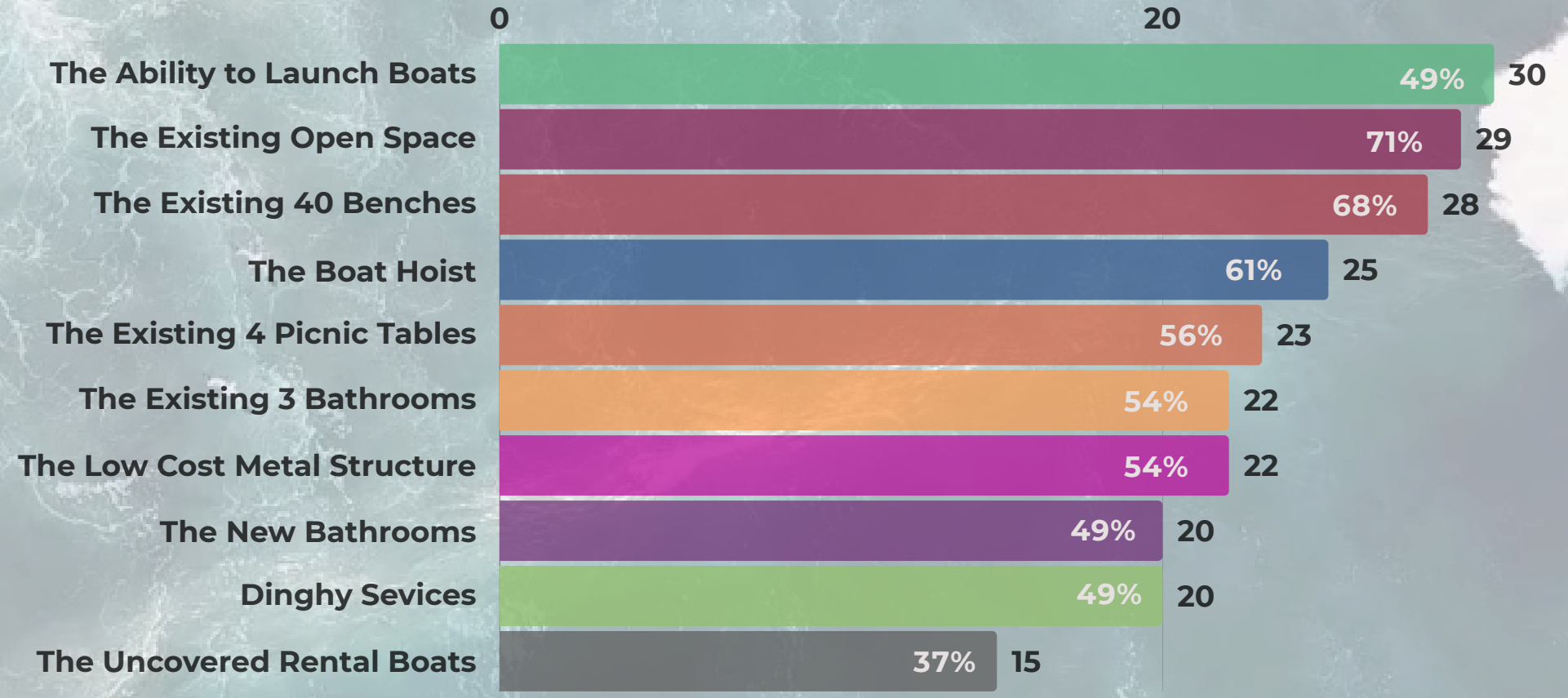
...Out of 1067 total votes, 48 people chose Option 03 as their favorite option.



Why is this your favorite?



Favorite Features



Suggested Additions:

- Shade structure
- Additional Benches
- Additional Picnic Tables

75.0%

...Of respondents would support adding a Marine Rescue Watercraft Storage area / Lifeguard Station

Most Disliked Feature:

- The Bathroom
- The Stage
- Launching Private Boats

OPTION 04 | NEW FISHING CONCESSION

- A.** New Larger Enclosed Fishing Concession With Enclosed Boat Storage And Boat Repair
- B.** New Stage (1)
- C.** Fixed Lifeguard Station With Marine Rescue Water Craft Storage (Jetski).
- D.** Additional Public Restroom
- E.** Keep Existing Park Benches (40), Picnic Tables (4), Viewing Stations (4) & Fish Cleaning Station (1), Bathroom near entrance (3), Bike Rack (10) & Boat Hoist (1) & Mooring Bouys

TOTAL ESTIMATE: 1.6M - 2.5M

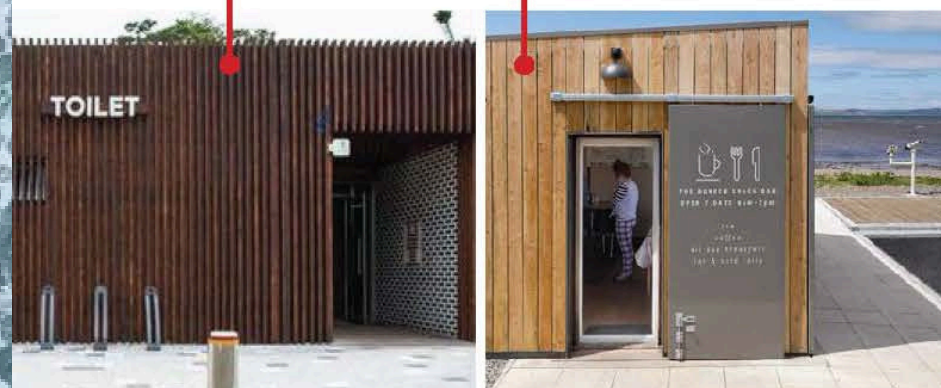
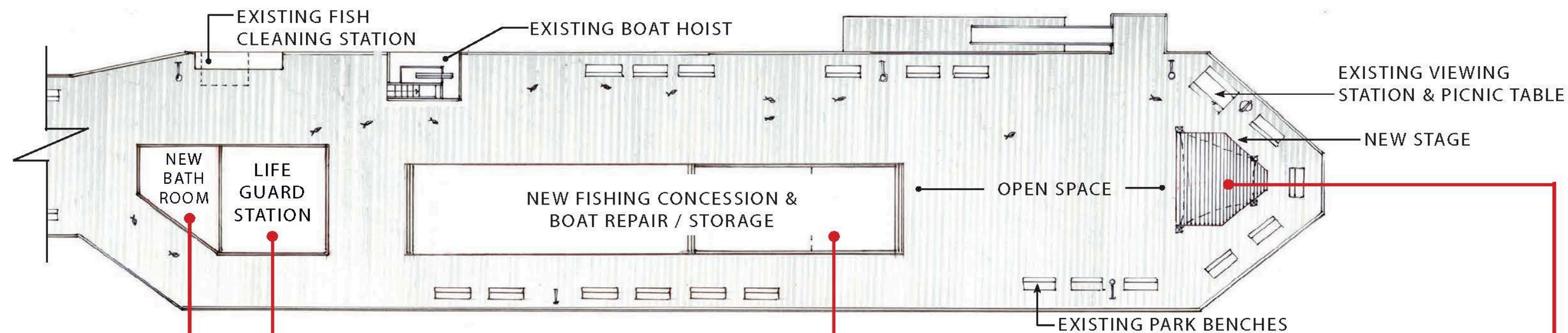
Enhanced Public Space / Park: (+/-) \$150k

Public Restroom: (+/-) \$600k

Marine Rescue Watercraft Storage (Jetski): (+/-) \$200k

Fixed Boat Storage & Fishing Concession: (+/-) \$650k

Any Necessary Engineering: T.b.d.



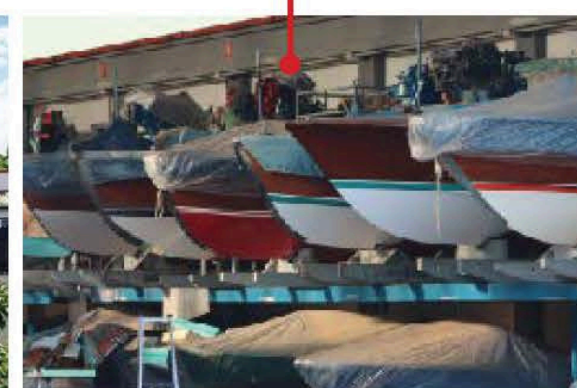
PUBLIC BATHROOM



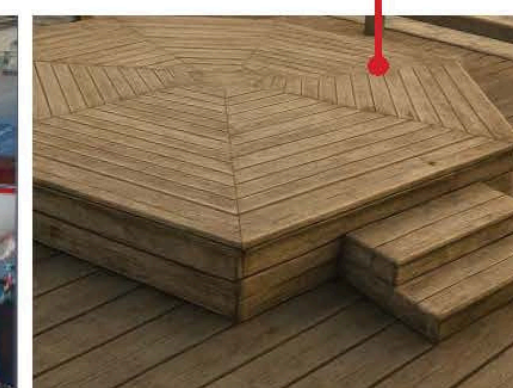
LIFEGUARD STATION



FIXED STRUCTURE / FISHING CONCESSION / REPAIR / STORAGE



ENCLOSED RENTAL BOAT STORAGE



STAGE

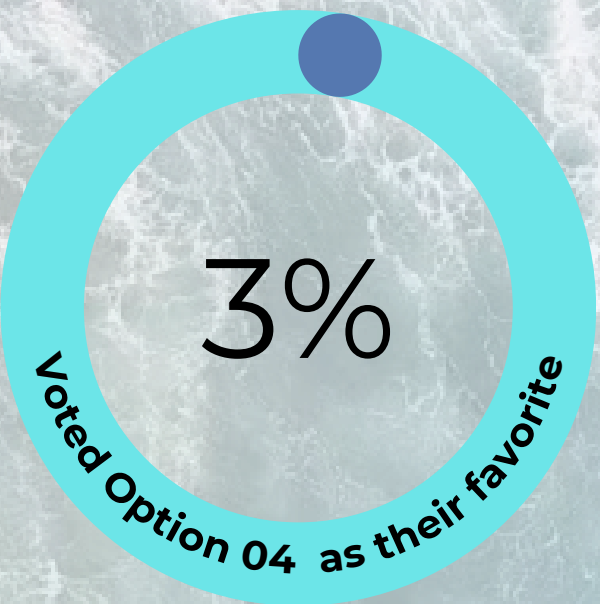
04.

Option 04 Survey Results

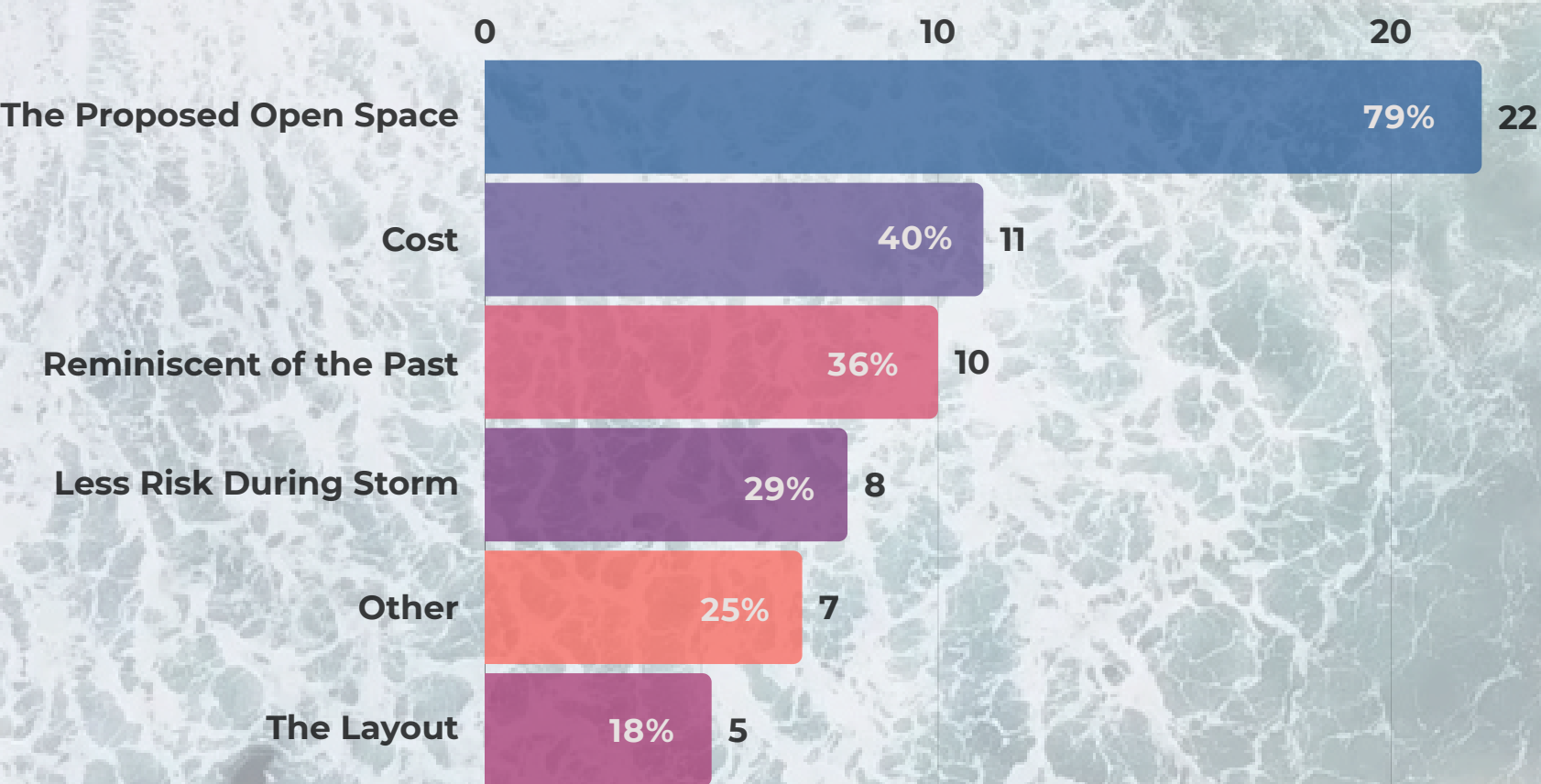
Option 04 / New Fishing Concession - Overall Tally:

29 TOTAL VOTES / 2.91%

...Out of 1067 total votes, 29 people chose Option 04 as their favorite option.



Why is this your favorite?



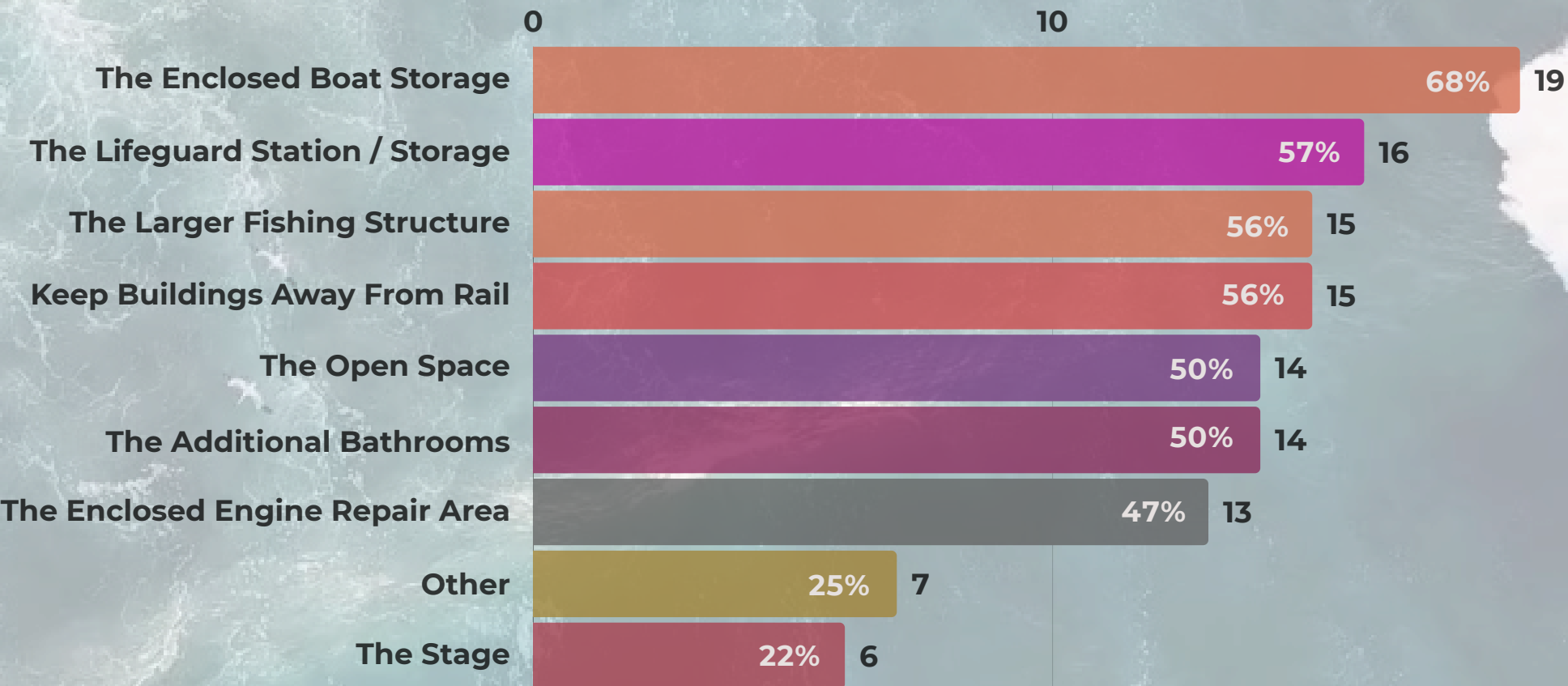
Suggested Additions:

- Picnic Tables & Benches
- Lifeguard & Jr. Guard Area
- More Fishing Areas

58%

...Of respondents would support keeping the hoist and adding a Marine Rescue Watercraft Storage area

Favorite Features



Most Disliked Feature:

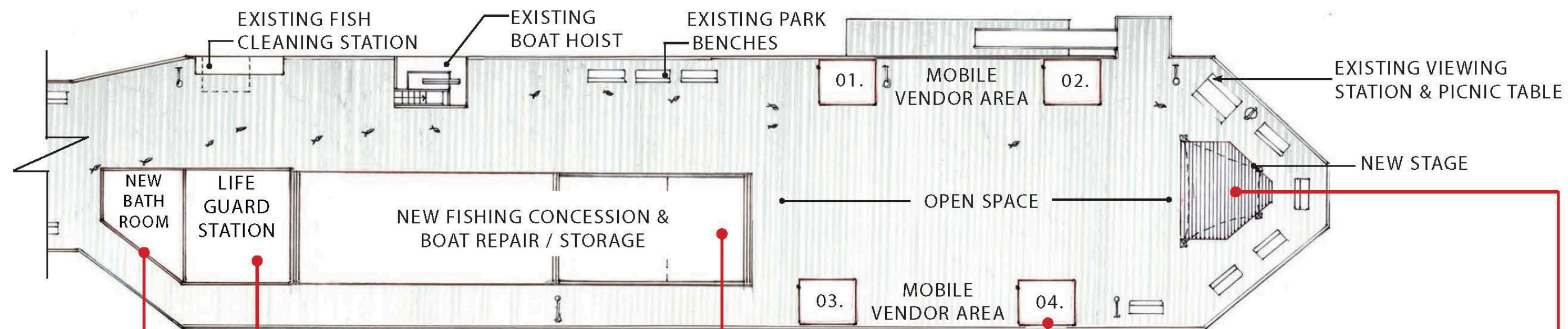
- The Stage
- The Cost
- The Enclosed Engine Area

OPTION 05 | FISHING CONCESSION & MOBILE VENDORS

- A.** New Larger Enclosed Fishing Concession with Enclosed Boat Storage & Boat Repair
- C.** Dedicated Areas For Mobile Vendors
- D.** New Stage (1)
- E.** Fixed Lifeguard Station With Marine Rescue Water Craft Storage (Jetski).
- F.** Additional Public Restroom
- G.** Keep Existing Park Benches (40), Picnic Tables (4), Viewing Stations (4)
Fish Cleaning Station (1), Bathroom near entrance (3), Bike Racks (10), Boat Hoist & Bouys

TOTAL ESTIMATE: 2.5- 3M

Mobile Vendors: (+/-) \$120k / Each
 Enhanced Public Space / Park: (+/-) \$150k
 Public Restroom: (+/-) \$600k
 Marine Rescue Watercraft Storage (Jetski): (+/-) \$200k
 Fixed Boat Storage & Fishing Concession: (+/-) \$650k
 Any Necessary Engineering: T.b.d.



PUBLIC
BATHROOM



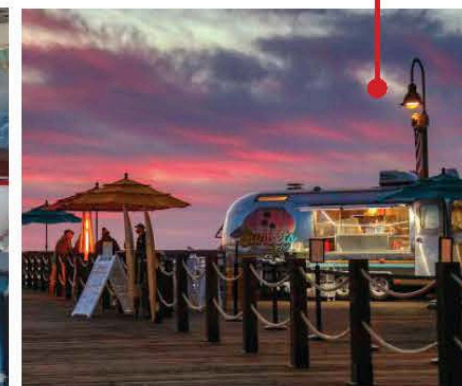
LIFEGUARD STATION



FISHING
CONCESSION



ENCLOSED RENTAL
BOAT STORAGE



MOBILE VENDOR / SMALL /
LARGE CONCEPTS



STAGE

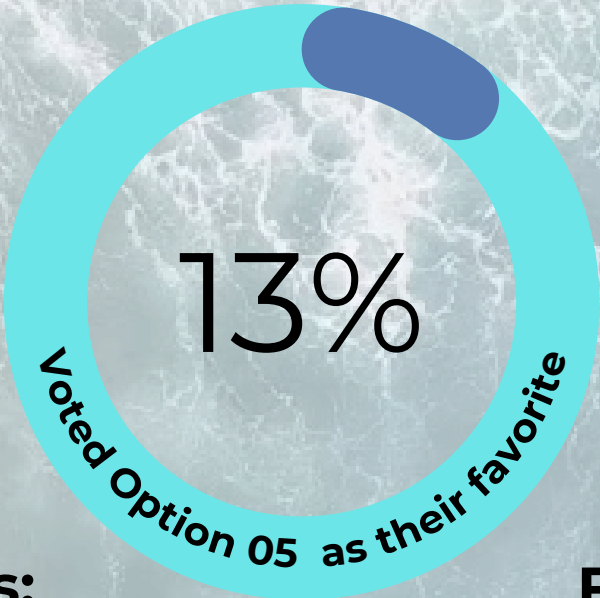
05.

Option 05 Survey Results

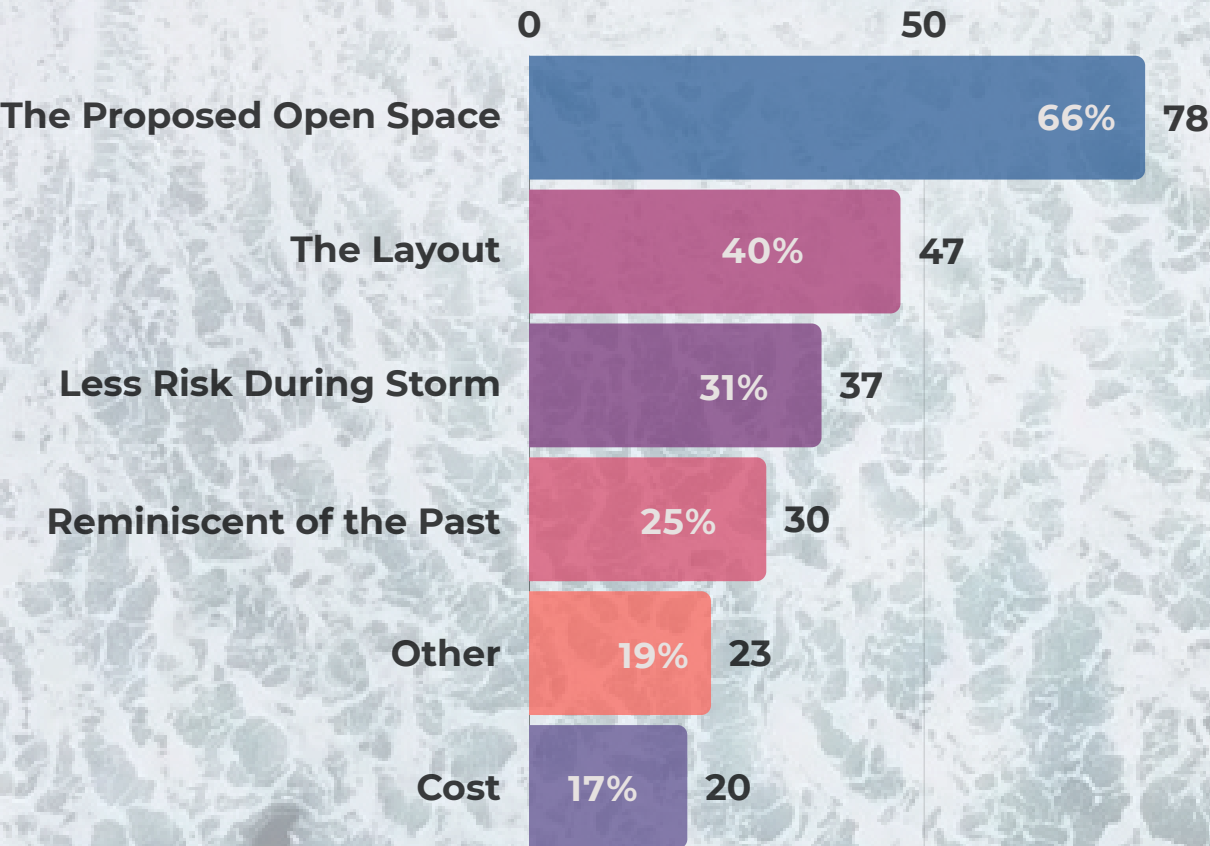
Option 05 / New Fishing Concession & Mobile Vendors - Overall Tally:

127 TOTAL VOTES / 12.74%

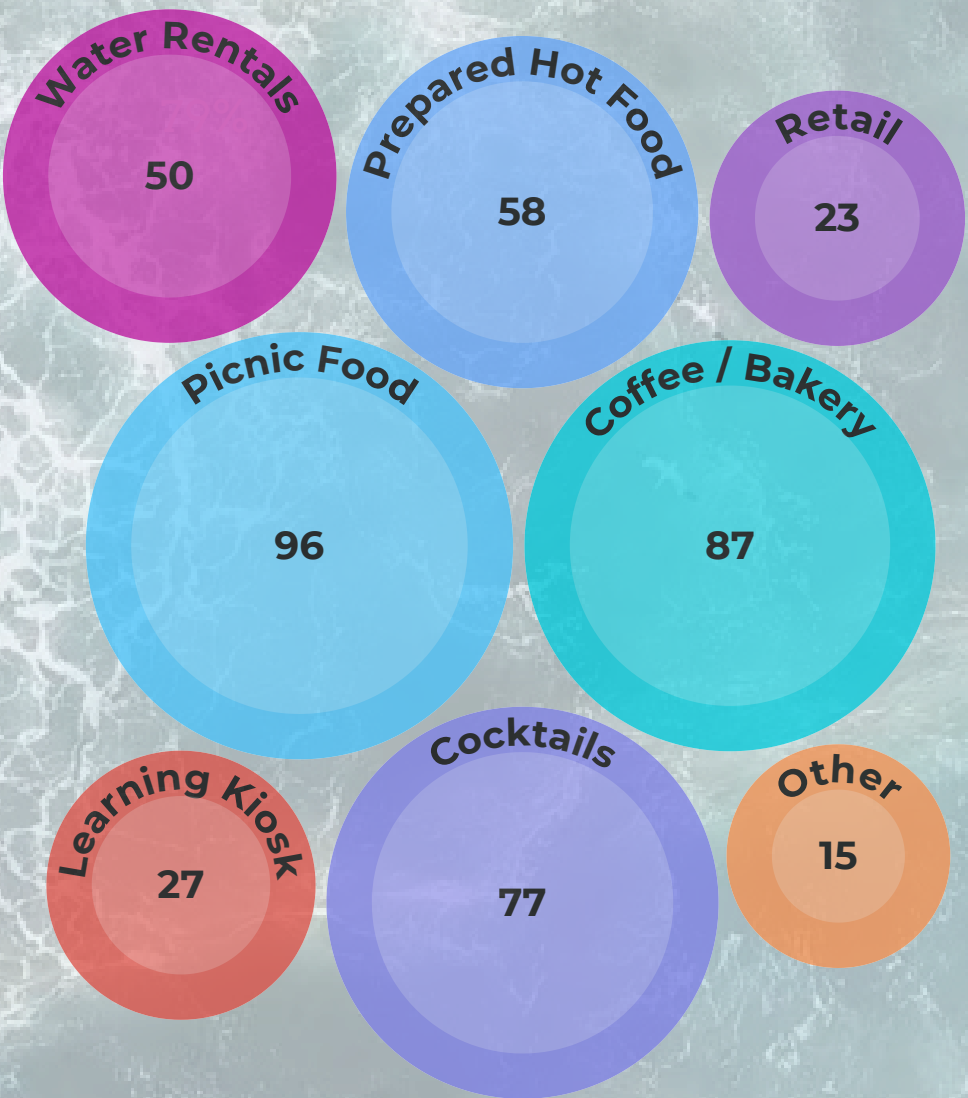
...Out of 1067 total votes, 127 people chose Option 05 as their favorite option.



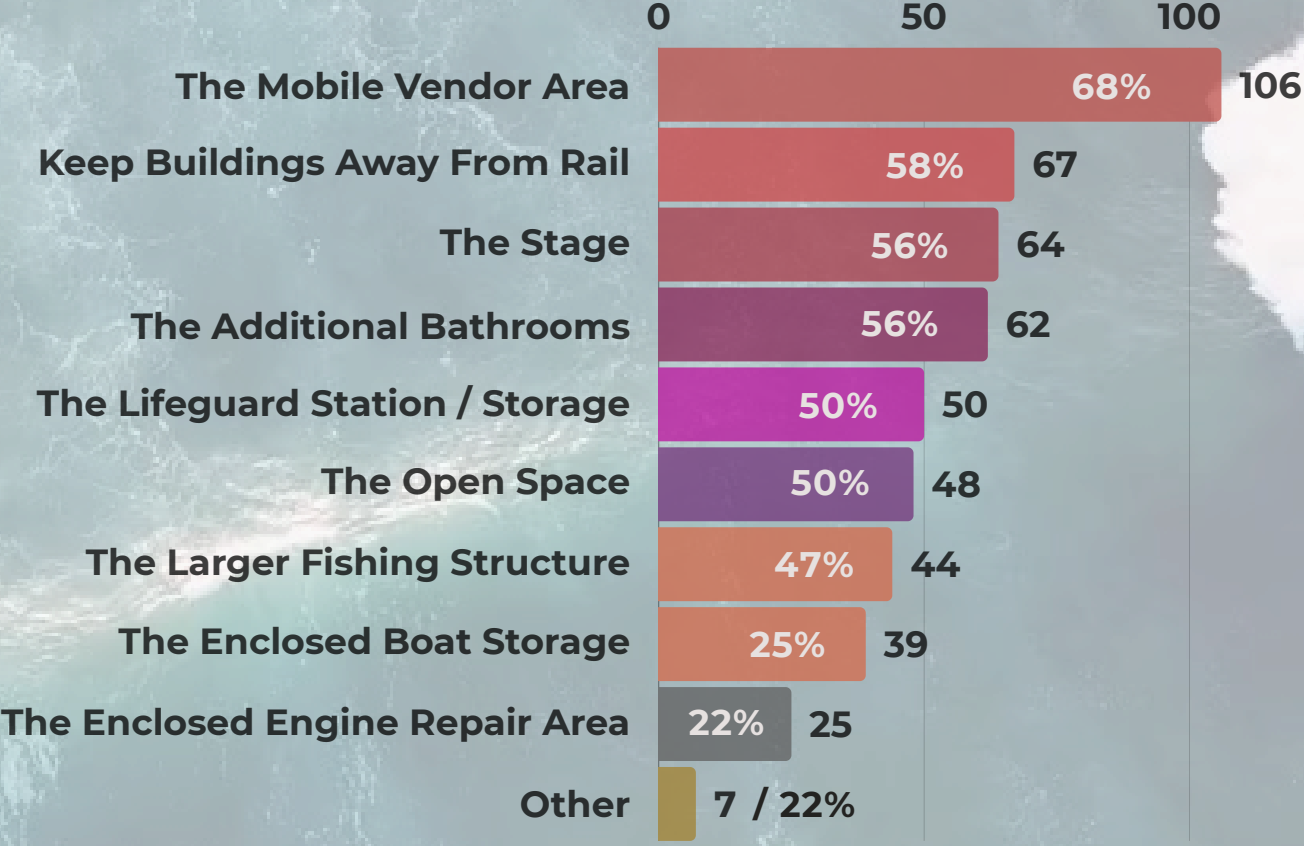
Why is this your favorite?



Desired Vendor Services:



Favorite Features:



Suggested Additions:

- Picnic Tables & Benches / Shade
- Exercise Equipment
- Evening Cruises on the Water

42% ...Of respondents would support keeping the hoist and adding a Marine Rescue Watercraft Storage area

Most Disliked Feature:

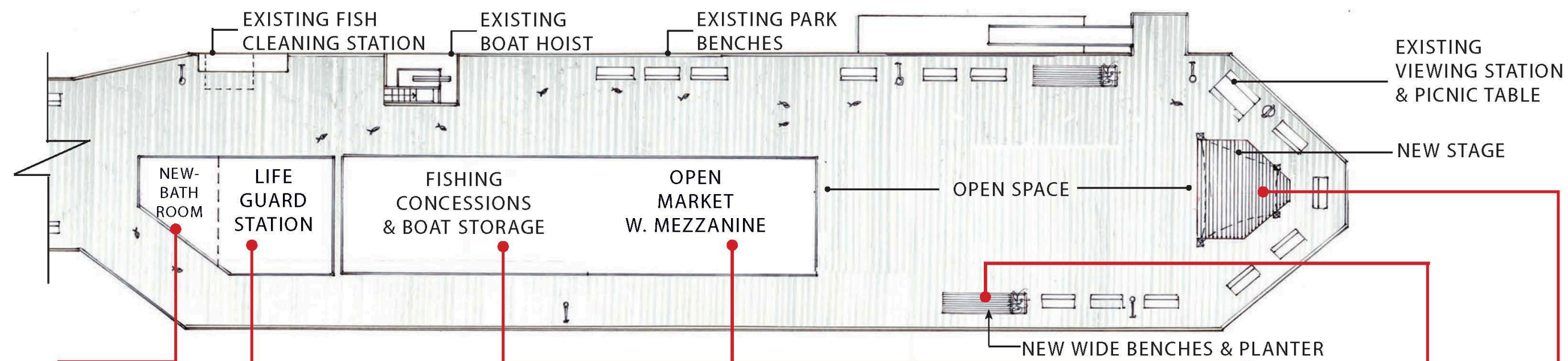
- The Stage
- The Larger Structure
- The Enclosed Engine Area

OPTION 06 | FISHING CONCESSION & FLEXIBLE MARKETSPACE

- A.** Fishing Concession & Enclosed Rental Boat Storage & Boat Repair
- B.** Flexible Open Air Market (1e: Fish Market, Food & Beverage)
- C.** New Stage (1) & New Wide Benches (2) & Planters (2)
- D.** Lifeguard Station With Marine Rescue Water Craft Storage (Jetski)
- E.** Additional Public Restroom
- F.** Keep Existing Benches (40), Picnic Tables (4), Viewing Stations (4), Fish Cleaning Station (1), Bathrooms Near Entrance (3 Stall), Bike rack (10), Boat Hoist & Bouys

TOTAL ESTIMATE: 2.5M - 3.2M

Enhanced Public Space / Park: (+/-) \$150k
 Public Restroom: (+/-) \$600k
 Marine Rescue Watercraft Storage (Jetski): (+/-) \$200k
 Indoor Market Space / Food + Fish Consession: (+/-) 1.2m
 Any Necessary Engineering: T.b.d.



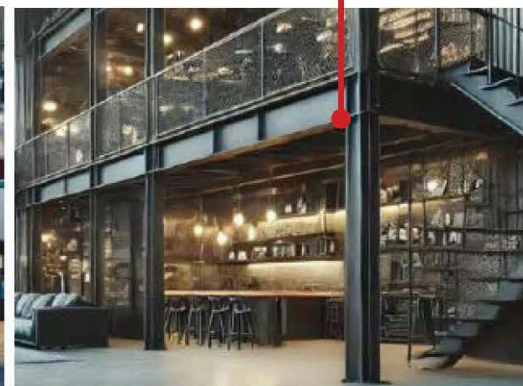
PUBLIC
BATHROOM



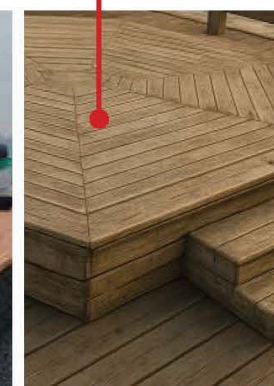
LIFEGUARD
STATION



FLEXIBLE MARKET SPACE: FISHING CONCESSION / FOOD & BEVERAGE SERVICES



WIDE
BENCHES



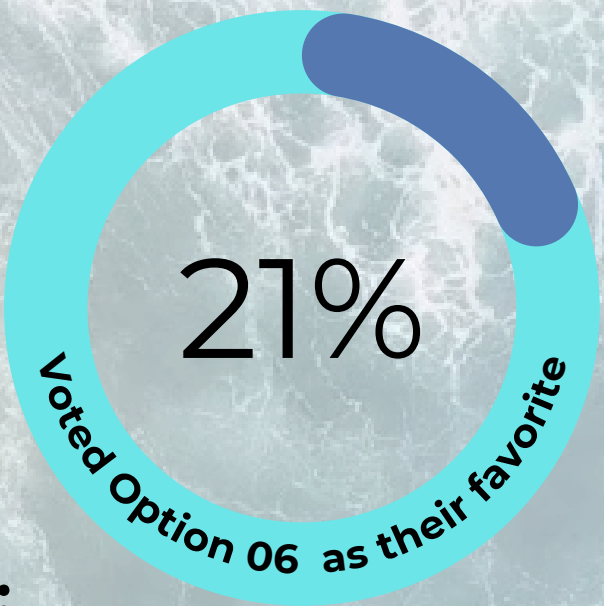
STAGE

Option 06 Survey Results

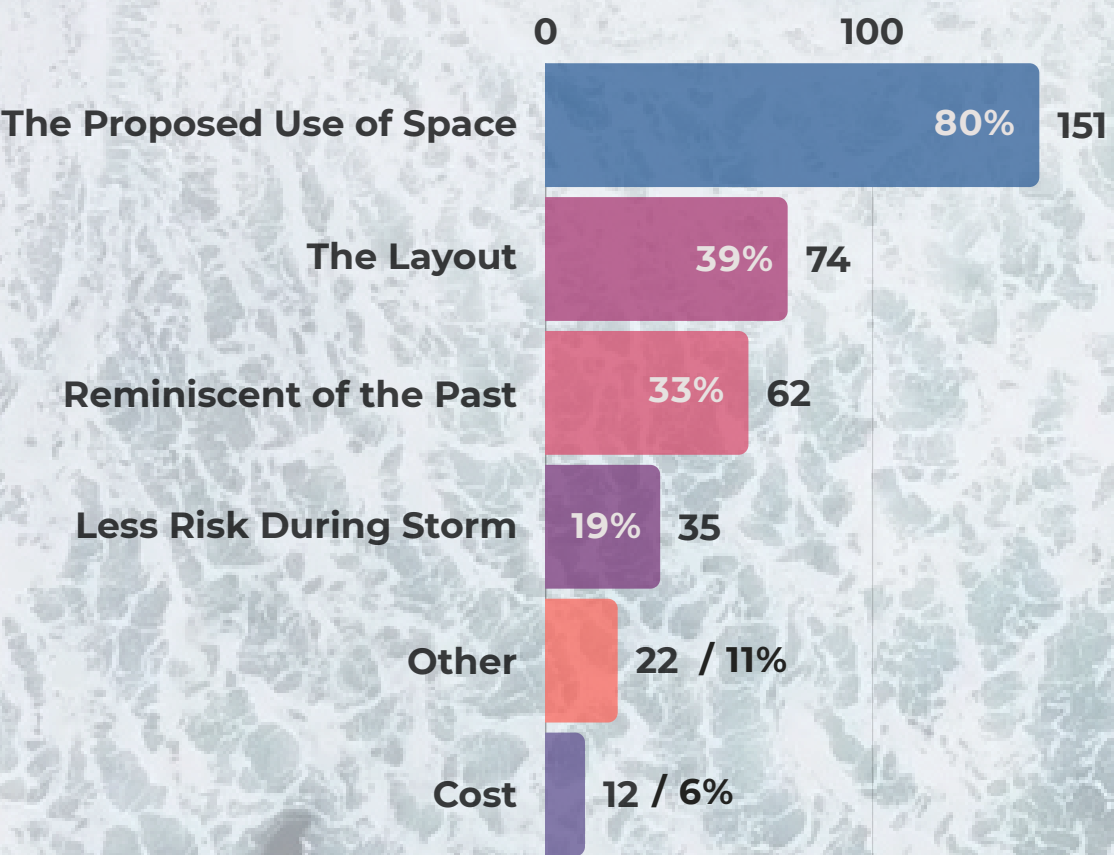
Option 06 - Fishing Concession & Flexible Market Space / Overall Tally:

206 TOTAL VOTES / 20.66%

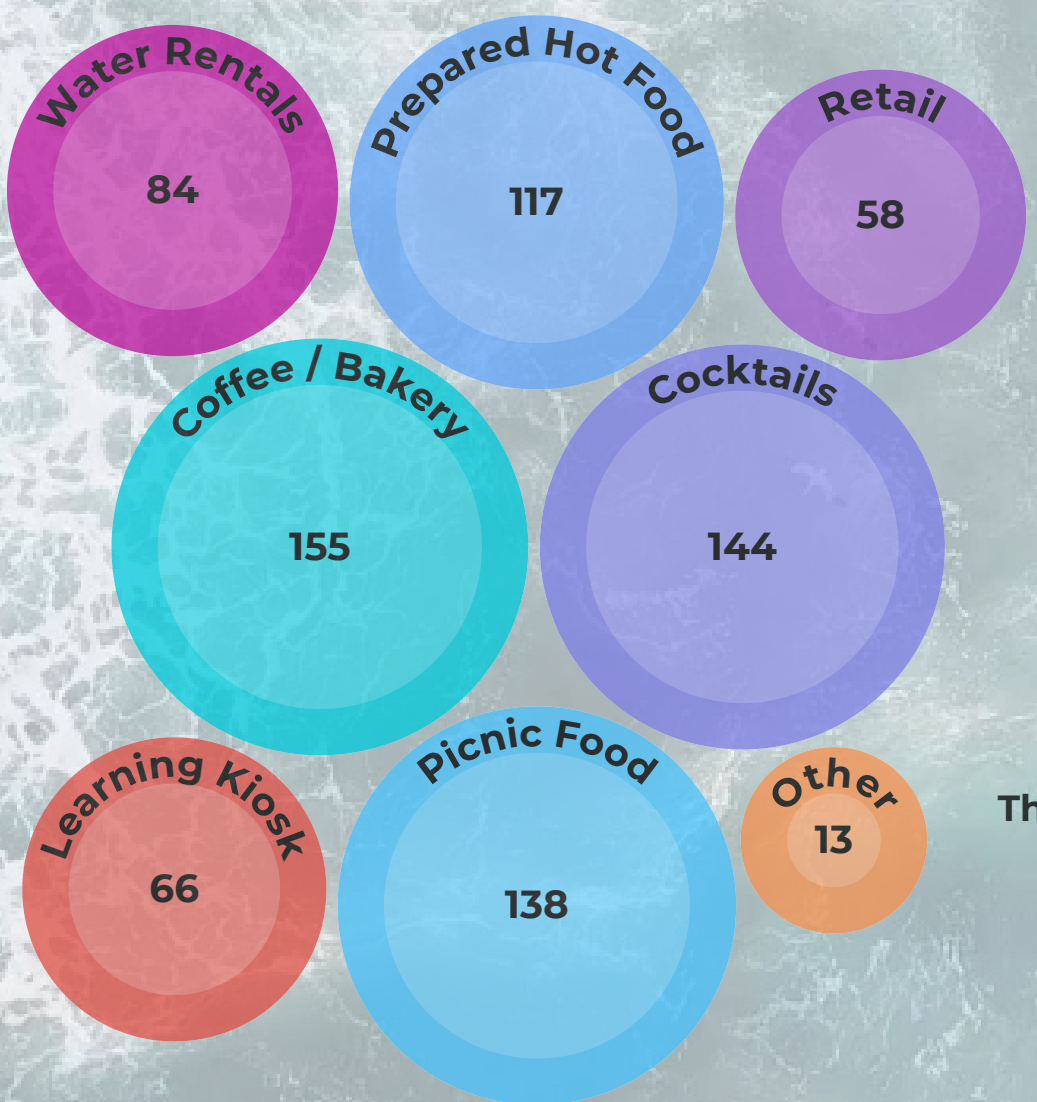
...Out of 1067 total votes, 206 people chose Option 06 as their favorite option.



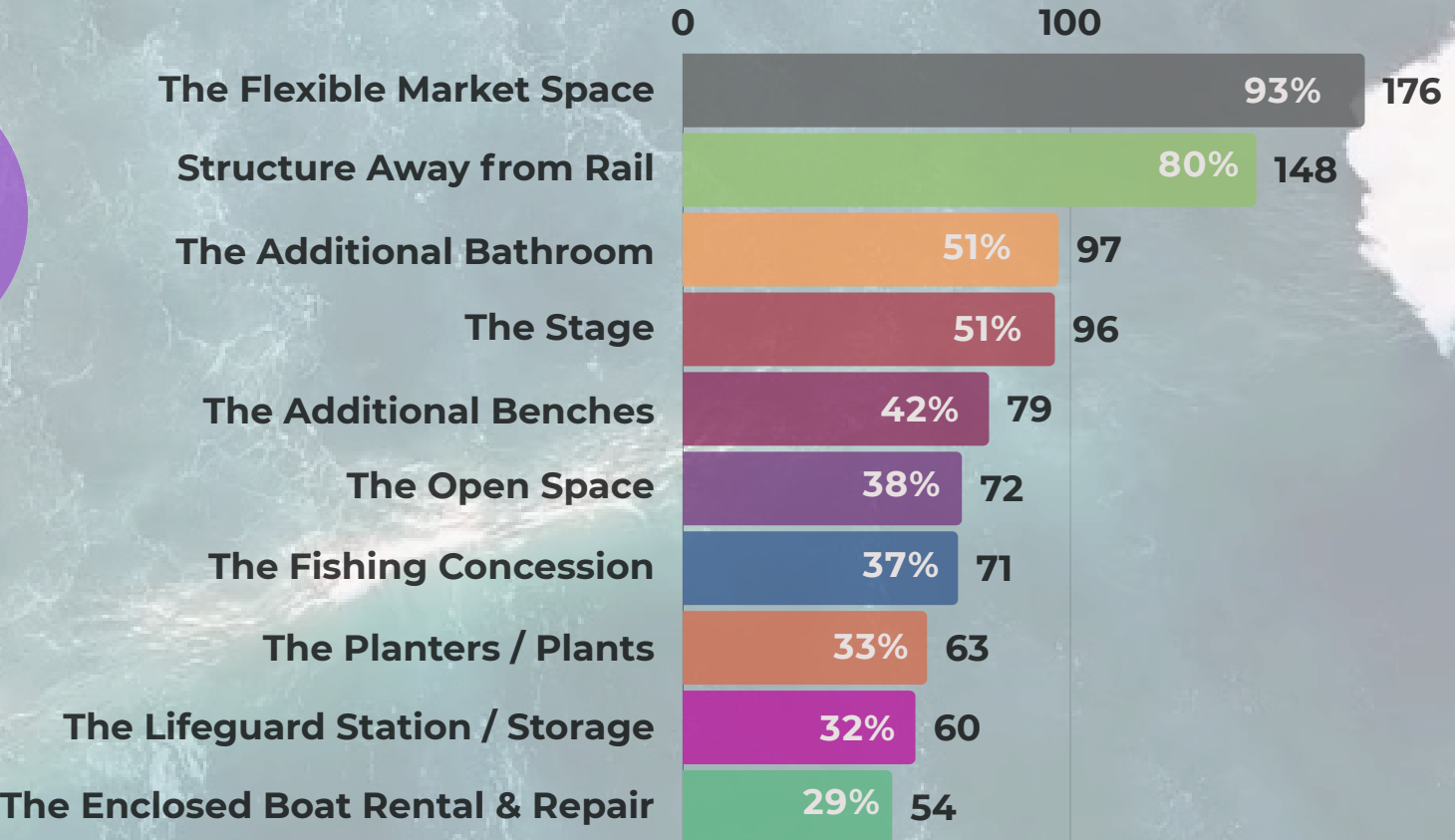
Why is this your favorite?



Favorite Features:



Favorite Features:



Suggested Additions:

- Stage on Roof Only
- More Benches / Tables / Shade
- Area to Cut Bait / Messy

58%

...Of respondents would support a two story structure on the wharf. 35% would only support this if it was a rooftop deck

Most Disliked Feature:

- Cost
- Bait Shop too big
- The Stage

OPTION 07 | PERMANENT STRUCTURE

- A. Fishing Concession & Enlosed Rental Boat Storage & Boat Repair, Mooring Buoys, Dingy Service & Boat Hoist
- B. Full Restaurant
- C. Lifeguard Station With Marine Rescue Water Craft Storage (Jetski)
- D. New Stage (1)
- E. Additional Public Restroom
- F. Keep Existing Benches (40), Picnic Tables (4), Viewing Stations (4) , Fish Cleaning Station (1), Bathrooms Near Entrance (3 Stall) & Bike rack (10), Boat Hoist (1) & Bouys

TOTAL ESTIMATE: 5.5M - 6.2M

Enhanced Public Space / Park: (+/-) \$250k

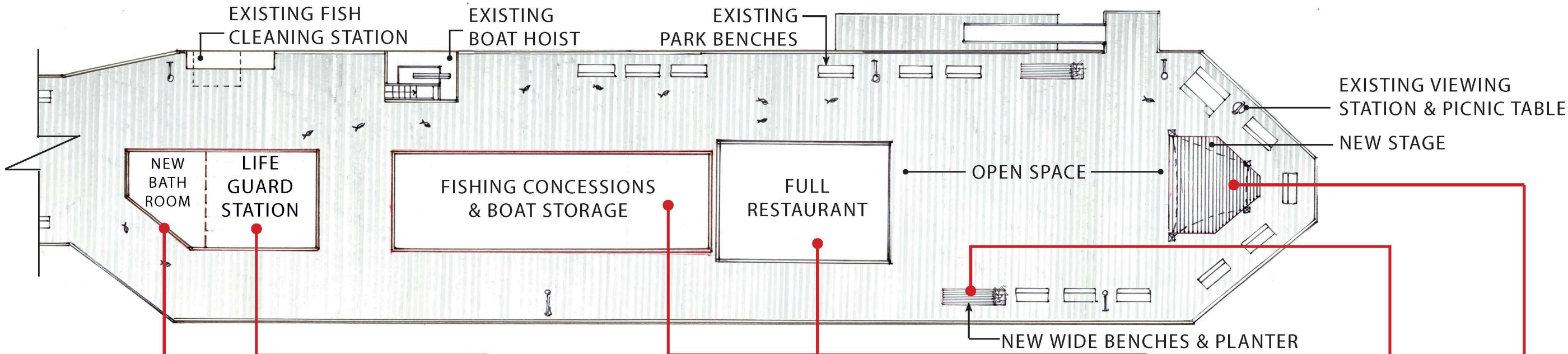
Public Restroom: (+/-) \$600k

Marine Rescue Watercraft Storage (Jetski): (+/-) \$200k

Permanent Boat Storage & Fishing Concession: (+/-) \$1.2k

Permanent Restaurant: (+/-) \$3.3m

Any Necessary Engineering: T.b.d.



PUBLIC BATHROOM



LIFEGUARD STATION



ENCLOSED RENTAL BOAT STORAGE



FULL RESTAURANT



PLANTERS & BENCHES



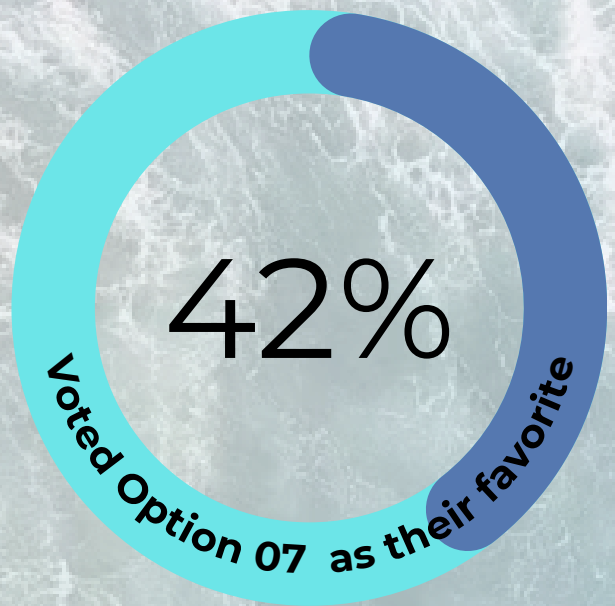
STAGE

Option 07 Survey Results

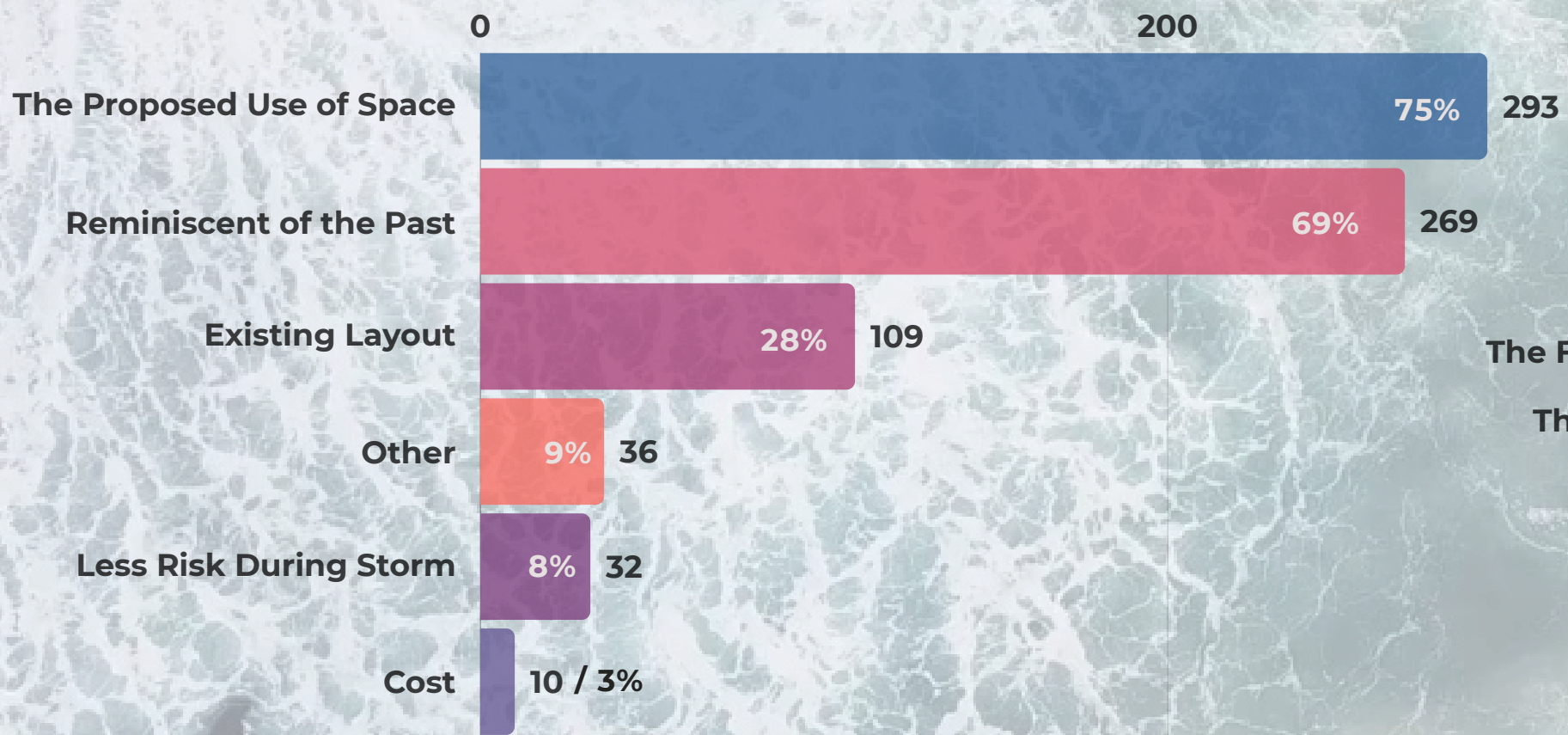
Option 07 - Permanent Structures / Overall Tally:

421 TOTAL VOTES / 42.23%

...Out of 1067 total votes, 421 people chose Option 07 as their favorite option.



Why is this your favorite?



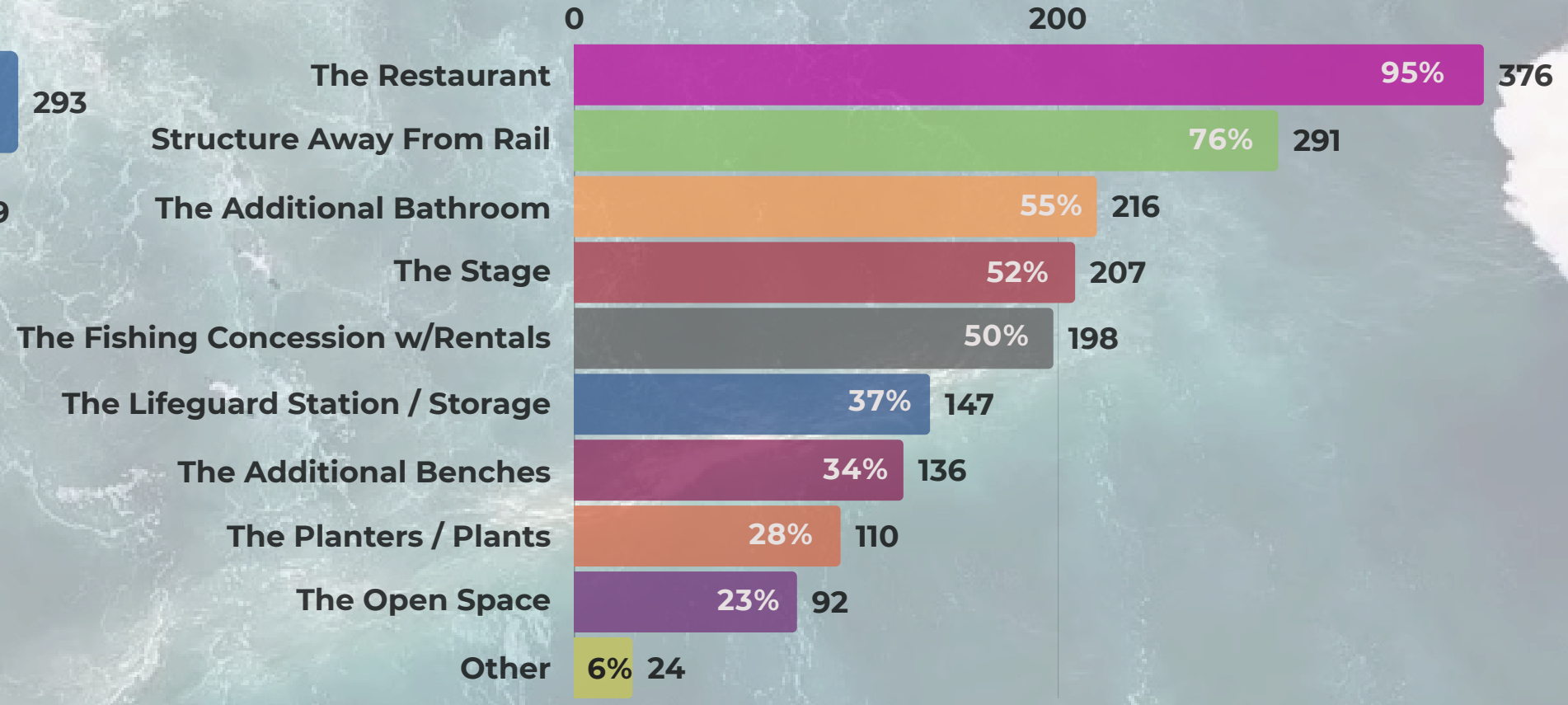
Suggested Additions:

- Shade structures / Seating
- Roof Top Stage / Dancing
- Living Roof on Structure

62%

...Of respondents would support a two story structure on the wharf. 37% would only support this if it was a rooftop deck

Favorite Features:



Most Disliked Feature:

- The Stage
- The Planters
- Electric Bathrooms



KEY TAKE - AWAYS FROM PUBLIC OUTREACH

- **Survey was taken by over 1,000 people** which included a great representation of all age groups except under 18 (2.9%). The majority of participants either lived in Capitola (499) or Santa Cruz County (419).
- **There is significant support for permanent structures (options 6 / 21% + option 7 / 42% = 627 votes / 63% overall):** The main design intention was to create permanent year round structures for either a marketspace (Option 6) or restaurant (Option 7); both with fishing concession. The difference between the costs associated with Options 6 & Option 7, is due to structure type and a restaurant with full kitchen being included in Option 7.
- **There is support for Mobile Vending (Options 2 / 13% + Option 05 / 13% = 260 votes / 26% overall):** Mobile vendors could be incorporated into the overall master plan. If mobile vending options are pursued, the consultant recommends light weight mobile vendors (not food trucks) due to weight limitations and concerns related to competition with existing businesses in Village.
- **The least popular option was Option 4 (29 votes / 3% overall):** This option simply replaces the existing fishing concession with a new enclosed fishing station.
- **There is support in all options to keep the hoist and add a lifeguard station for personal rescue watercraft vehicles and shade structures.**
- **There was a mix of opinions related to the stage, planters, and enclosed boat area.** The stage location was frequently commented on related to the location (interferes with fishing, decreases open space, and being either on the roof or deck).
- **Biggest concerns were cost and more frequent, destructive storms.**
 - **Related to costs;** The survey informed the public that Options 1 – 5 may be paid for through grant money or general fund money. Options 6 and 7 will likely require a public/private partnership. For example, new commercial structures on the Santa Cruz Wharf require a private investor to pay for commercial structure and lease the space from the City.
 - **Regarding the structure & storms:** Moffat and Nicholl, the wharf engineer team, will assist with final conceptual design to ensure storm mitigation to greatest extent possible.



CAPITOLA WHARF MASTER PLAN

RECOMMENDATION BASED ON SURVEY RESULTS

Given the strong support for Option Seven and significant interest in Option Six;

Fuse Architecture recommends a hybrid approach incorporating elements from both proposed options. The hybrid would be based on the public input received, understanding of the local community, architectural expertise, and the structural integrity of the wharf to create the most economically feasible conceptual design. The hybrid option will be developed to provide future flexibility for potential public/private partnerships, aligning the determined design program with stated public intentions and investors' business interests. The Wharf Master Plan would be utilized for a future Request For Proposals (RFPs) to generate private investor interest.

THANK YOU

FOR YOUR ATTENTION!



+ fuse ∞

CAPITOLA WHARF

SURVEY RESULTS

CITY COUNCIL

JUNE 26 2025

Planning Commission – May 1, 2025

1. Prime real estate that we really need to program. Important to find the balance which creates a great outdoor space and the commercial uses.
2. Historically a fishing Wharf. There is concern about the removal of fishing in Options 1 and 2. Fishing should remain. Keep the hoist for fishing and safety in the final option.
3. If the City Council were to go with mobile vendors, one of the mobile vendors could be a fishing concession that also manages the hoist and sells bait.
4. The City's Local Coastal Program Land Use Plan identifies the Wharf as a public fishing Wharf. Removing the fishing concession and hoist would conflict with the LCP LUP and require an update certified by the Coastal Commission.
5. Support the additional bathroom at the end of the Wharf in all options.
6. The City should further study the economic viability of the options with new commercial uses. Need to take into consideration the cost of the construction, the economic viability of the commercial use, and the seasonality of doing business on the wharf. The economic analysis should help drive the choice made by the City Council. We should look at the data from the previous restaurant and fishing concession, to assist with the analysis.
7. The seasonal nature of the Wharf will be a challenge for business owners. During the winter months, it will be very challenging for the business owner(s) on the wharf.
8. With mobile vendors, the City could just have them there April through October, and close for the winter.
9. The marketplace within Option 6, would provide a warm space during the off-season.
10. Future uses on the Wharf should be an attraction with something special that brings more people to the Village and have a positive economic impact. The attraction could differentiate the Capitola Wharf from other wharfs in the area.
11. Mobile vendors are intriguing. The City should consider starting small (1 or 2) and adding more if successful. Four vendors, as shown, may not be necessary.
12. Lot of great options, but ultimately a hybrid option should be considered. Many good ideas may be best combined.
13. Options 1 and 2 should have more space for vendors to access the Wharf and remain flexible.
14. For the more expensive option, there was concern with the recent storms and the need for the city to consider the impacts of climate change and the fiscal burden on future taxpayers. Ongoing maintenance and replacement costs are expensive and should also be considered. Option 2 is a sustainable option with less risk as it has the ability to move the vendors off the wharf if a storm is expected.
15. Further analysis should be conducted on the proposed land uses and the functional impacts on the Wharf in relation to vehicles, deliveries, and trash.
16. Concern with the height and massing of Options 6 and 7 due to their impact on views.
17. Public comment was received supporting a taller building at the end of the Wharf and advocating for local labor in construction.

Museum Committee – May 1, 2025

1. Support for lifeguard station. Add a lifeguard station to Options 1 and 2.
2. Consider installing plexiglass at the end of the Wharf to reduce wind.
3. Concern about the location of the stage at the end of the Wharf next to fishing. Consider the impacts of fishing and bait on the stage. May want to relocate the stage and leave the end of the Wharf for fishing.
4. Consider wind exposure in the placement of the stage.
5. Music and entertainment would be great to have back on the Wharf. Music on the Wharf can be enjoyed by all nearby residents.
6. Appreciate that the stage is open for public enjoyment and not restricted to a restaurant.
7. Offer leases to Village vendors for mobile vending.
8. The City should consider a setup similar to the Ferry Building with a farmers market.
9. The Wharf is a great location to share Capitola's history through wall space on conditioned walls. Future buildings should include exhibit space for museum photographs and stories.
10. The exteriors of the buildings could display historic quotes.
11. The Wharf is a special part of Capitola's Begonia Festival and now Beach Festival, including the fishing contest.
12. Fishing is a big part of the Wharf's history.
13. The Wharf is the only fishing spot in Capitola where no permit is required.
14. The options with enclosed storage for boats are an improvement over what exists today.
15. The full restaurant concept is classy but high-risk. With increasingly destructive storms and a \$6.2 million price tag, this is a gamble. Mobile vendors are a smarter and less risky alternative.

Art and Culture Committee – May 13, 2025

1. Appreciates the open space.
2. Not in favor of too many benches. Need to maintain access to the stage and mobile vendors.
3. Likes open space.
4. A lifeguard station is a good idea.
5. Don't allow concessions to get too big.
6. Keep the hoist and fishing operations. Fishing should remain on the Wharf.
7. Would like a restaurant as an attraction on the Wharf and in Capitola Village. Concern that vendors could detract from Village businesses.
8. The new bathroom at the end of the Wharf should be more typical and less high-tech than those near the entrance.
9. Support a stage on the restaurant as it aids in licensing.
10. Mobile food vendors could be limited by weather. There is support for a marketplace option.
11. Maximize open space. The Wharf felt very crowded during last year's events. Need room for people.
12. The restaurant idea is not inclusive—it is limited to paying patrons.
13. Suggestion for Option 3 with a new restaurant and stage. This would preserve fishing in its current form.
14. Suggestion for a hybrid approach with open space and either a mobile vendor or restaurant.
15. A two-level experience is appealing.
16. Decrease the size of fishing concessions.
17. Support for yoga.
18. The former restaurant was often crowded and lacked enough seating.
19. Support for the bathroom.
20. Opportunity for public art. Ideas include climbable art for kids (similar to the seals in Esplanade Park), a kiosk, art that complements the view, room for future art, and pedestals for sculptures.

New Brighton Middle School – Student Council

1. Lifeguard storage should be included in all options.
2. Stage is good, but concerns about its size—it may need to be bigger.
3. Make sure there are electrical outlets for future uses.
4. Don't place too many seats in front of stage. People will bring their own chairs to events.
5. Option 5 should include tables between the food vendors.
6. The market space in Option 6 takes up too much space. Vendors offer more flexibility. Consider adding mobile vendors to Option 6.
7. The Village already has food.
8. Like how peaceful the Wharf is. The Village is busy and active. The Wharf offers a quiet retreat. Options 6 and 7 could be too busy and crowded.
9. Support for Options 3, 5, 6, and 7. The group leaned toward Option 5 for its inclusion of fishing concession, mobile vendors, lifeguard storage, bathroom, open space, and quiet atmosphere.

CVWBIA: Capitola Village and Wharf Business Improvement Area

Capitola City Council & Staff,

Thank you for requesting BIA input. We urged our membership to complete the Wharf Survey, which many have done.

The Board of Directors has discussed the Wharf Plan at several board meetings. We offer the following representation of support and partnership.

Preserving the wharf's legacy as a FISHING pier is essential. The options presented all have merits. The BIA appreciates the opportunity to be involved now and on an ongoing basis in the development of the chosen solution to optimize economic development and limit disruption to the Village and Wharf area business community.

Thank you,
 Anthony Guajardo
 Chair, Capitola Village and Wharf Business Improvement Area

Coastal Commission

1. Like the additional seating, tables, and planters, which increase public access.
2. Like the open space along the Wharf edge for fishing and enjoying the view.
3. In options that remove the hoist, the City should consider the impacts, as this hoist uniquely provides small boat access to the water.
4. Like the stage but are concerned about its location at the end of the Wharf and possible conflicts with fishing.
5. Support integrated art in the project.
6. Mobile vendors should be moved away from the edge to preserve fishing access and views.
7. Consider adding a stage, benches, picnic tables, and planters to Option 3.
8. Support for lifeguard station. The need for a Marine Rescue Water Craft has been raised in the past.
9. Concern about the size of fishing concessions that store boats—they take up too much space and block views.
10. In options with larger structures, ensure final design considers scale and views, using varied materials and breaking up massing.
11. Option 6 includes many LUP-supported elements: fishing, lifeguard, bathrooms, and a local market. It resembles the Embarcadero, with a marketplace and eclectic uses, and allows public access to enclosed seating without requiring restaurant patronage.
12. Option 7 may oversaturate the Wharf with a single restaurant that only patrons can access.
13. A stage on the Wharf provides access for all to public events.
14. Overall support for thoughtful designs among the seven options.

Commission on the Environment

1. It is important for City Council to consider the very likely risk of additional Wharf damage from extreme storms alongside public preferences.
2. Analyze the likelihood of coastal impacts using data from the Wharf project's engineers or architects.
3. New Wharf structures would be vulnerable to future extreme storm events.
4. It does not make sense to remove the boat hoist. It serves an important purpose, and removal would generate unnecessary construction waste. It also prevents the community from engaging with the Sanctuary and environment.
5. The City should explore other locations for boat storage and repair. It should determine whether boat repair over the Sanctuary is still a permitted activity.
6. The City should ask Fuse how to make Wharf energy use more sustainable (e.g., solar panels) and assess the related costs.
7. City Council should weigh sustainability and resiliency data alongside public opinion.
8. No strong preference for specific options; open to considering a hybrid approach.
9. City Council should review Wharf vulnerability data and projected storm frequency and intensity to assess risk and costs.
10. City Council should consider new waste streams from vendors, restaurants, or markets and the City's capacity to manage this waste.
11. How will the City insure new structures?
12. Mobile vendors could be removed seasonally when coastal hazard risks increase.
13. The public survey lacked information on Wharf resiliency and how options may be affected physically and financially by extreme storms. With better information, public responses might have differed.
14. It's important for City Council to balance public feedback with the Wharf's climate vulnerability.
15. The Wharf is a vital way for people to connect with the ocean. For many, walking out onto the pier is their only opportunity.
16. The Wharf is mostly used during spring and summer; this should factor into the evaluation of options.
17. Permanent structures should not be placed on the Wharf. Open space and movable structures (e.g., portable stage) allow flexibility. We could design the Wharf for the next 2–3 years rather than for 20 years.
18. The current bait shop location makes sense because it's close to the boat launch.
19. Motion to recommend that City Council consider the Wharf's longevity, structural capacity, vulnerability to future climate events, waste impacts, and new structural burdens. The motion was amended to include a recommendation that City Council review vulnerability and storm modeling data in combination with public survey results.

Capitola Wharf Enhancement Project Recommendations

Thank you for giving us the opportunity to give our input on the new wharf options. After having gathered 1,041 surveys and having talked to hundreds of people and many donors we feel confident that the following are what most of our community would like to see.

1. Fishing is an historical use of this wharf. Please support fishing in all its aspects; keep the boats on the wharf, allow a larger, permanent bait shop, reinstate the fish tank, and if the fish cleaning station is not finished it is important to finish that.
2. Keep the whole wharf open 24 hours a day, as it was before.
3. Keep as much open space on the wharf as possible. People said they appreciate the open space. Maintain flexibility and see how people use the new wharf. Place nothing down the middle. Do not install a stage at wharf level. No planter boxes, they are not needed and will cause the city hours of maintenance. Consider installing fewer benches, there are already 40 benches on the wharf.
4. Install a second bathroom at the end of the wharf. It could be low tec. It really helps the fishermen.
5. We agree that a restaurant with an upstairs music/dancing patio is something most people want to see. CWEP prefers the city not have a large investment in this feature.
6. Require the bait shop to offer seasonal moorings.
7. We encourage the city to install as many of the donated bronze fish as possible now and install the rest when the final wharf plan is solidified. We encourage all educational aspects and hope NOAA's interpretive kiosks will still be installed.
8. Please find a way to level the wharf planks, they are impossible to walk on. The wharf at Pismo Beach is level so it must be possible.



City Of Capitola Wharf Update

City Council
September 10, 20

Background

- December 2023: Severe storms damage Wharf
- February 2024: Demo structures & initiate long-term planning
- Spring 2024: Seven concepts & extensive community outreach
- June 2025: Council direction: hybrid approach combining Option 6 & 7
- April 23, 2026: Wharf Master Plan update & release an RFP
- RFP open through August 31, 2026
- One letter of Interest. However, not prepared to move forward at this time

Options

Item 9 A.

Option 1

Fishing
concession

No food & bev

Option 2

Fishing
concession

Small scale
food & bev
concession(s)

Option 3

Fishing
concession

Small scale
food & bev
concession(s)

Extend current
RFP 1 Year

Option 4

Other
Alternatives

Options

Item 9 A.

Option 1

Fishing
concession

No food & bev

Considerations

Restroom

Marine rescue
watercraft
storage
(MRWS)

Option 2

Fishing
concession

Small scale
food & bev
concession(s)

Considerations

Restroom
MRWS

Food & Bev
- Mobile
- Prefab
- Lease Duration
- How many

Option 3

Fishing
concession

Small scale
food & bev
concession(s)

Extend current
RFP 1 Year

Considerations

Food & Bev
- Mobile
- Prefab
- Lease Duration
- How many

Option 4

Other
Alternatives



Recommendation

Provide direction on next steps for future uses on the Wharf

Capitola City Council

Agenda Report

Meeting: September 10, 2026

From: Public Works Department

Subject: Stockton Avenue Bridge and Soquel Creek Implementation Update



Recommended Action: 1) Receive an update regarding implementation of the City Council's August 27, 2026, direction, including the bridge preservation and project-development solicitation, continued community outreach, and the annual Soquel Creek inspection and coordination; and 2) provide direction regarding whether staff should continue developing the Caltrans-recommended polyester concrete overlay and return with a revised funding request, or pursue a methacrylate deck treatment as a lower-cost interim maintenance measure.

Background: On August 27, 2026, the City Council directed staff to: 1) immediately proceed with obtaining bids for the Caltrans-recommended polyester concrete overlay and related preventative maintenance, with a construction amount not to exceed \$150,000 and a goal of completion before winter; 2) develop a plan to rebuild and preserve the existing bridge, including debris mitigation; 3) issue a solicitation emphasizing bridge rehabilitation, historic preservation, retrofitting, Caltrans project development, and funding expertise; 4) continue community outreach and provide monthly updates; and 5) inspect the Soquel Creek corridor, coordinate with appropriate agencies and property owners, and provide a written follow-up report. The complete motion is included in the August 27, 2026, City Council meeting minutes, scheduled for approval on September 10, 2026.

Discussion: Staff is proceeding with components two through five of the motion and has obtained preliminary scope and cost information regarding component one. Because the near-term maintenance work and longer-term bridge planning effort require different technical scopes and procurement schedules, staff is advancing them separately.

At the August 27 meeting, Council discussed completing the near-term maintenance project under an emergency authorization. Given the nature of the directed work and the existing bridge inspections and findings, using an emergency declaration for project bidding may be subject to challenge.

Caltrans-recommended Preventative Maintenance: Before the City can solicit construction bids, a qualified bridge engineer must evaluate the proposed maintenance work and prepare bid-ready plans, specifications, and an estimate. Caltrans' inspection recommendation identifies the general maintenance treatment, but it is not a construction design or complete bid package. City staff can administer the procurement and construction contract, but staff does not have the specialized bridge-engineering expertise necessary to establish the detailed repair limits and technical requirements.

At a minimum, the construction documents must address the limits and depth of deck repairs; removal and surface-preparation requirements; treatment of deteriorated concrete and reinforcing steel encountered during the work; material and installation requirements; traffic control and construction sequencing; access and environmental constraints; quality-control testing; and construction inspection and acceptance criteria. These details are necessary to protect public safety, obtain comparable bids, and give the City an enforceable basis for administering the construction contract and evaluating changed conditions.

Retaining a design professional to develop this limited maintenance project is consistent with the City's standard approach to specialized public works construction. For example, the City retained a consultant to develop the 41st Avenue project design and construction documents for work involving Caltrans right-of-way even after the general improvement concept had been established. The same project-

development step is appropriate here because the work will be performed on a bridge and the construction bid package must be prepared correctly.

Staff is seeking an expedited proposal from qualified bridge engineers. As of preparation of this report, staff has received one engineering proposal presenting two potential maintenance approaches and continues to solicit additional proposals. Updated information may be provided at the meeting. Both maintenance approaches include a site review, verification of repair quantities, and preparation of bid-ready plans, specifications, and an engineer's estimate.

- Polyester concrete overlay: This is the treatment recommended in the most recent Caltrans bridge inspection report. It would place a new protective surface over the existing deck, providing greater protection but not fully restoring or replacing the deck. The work would require an updated load rating to evaluate the added weight of the overlay, replacement of the existing joint assemblies, modifications to utility openings in the deck, and approach work to transition to the raised deck surface. The proposal estimates approximately \$126,000 for engineering services, including design, bid support, and engineering support during construction. The preliminary construction estimate is approximately \$284,000 and does not include traffic control or approach-roadway work. Construction inspection and materials testing are also excluded and would need to be provided separately. Given the additional structural analysis, design coordination, bidding, and construction required, completion before winter appears unlikely.
- Methacrylate deck treatment: The engineer identified this as a lower-cost interim alternative if the City intends to pursue a more comprehensive rehabilitation project that may ultimately include replacement of the existing deck in the future. The treatment would seal the deck surface to help slow further deterioration until that larger project can be completed, but it would not restore the deck. The anticipated work generally includes deck treatment, joint-seal work, localized approach repairs, traffic control, and pavement delineation. The proposal estimates approximately \$72,000 for engineering services, including design, bid support, and engineering support during construction. The preliminary construction estimate is approximately \$100,000 and does not include traffic control or approach-roadway work. Construction inspection and materials testing are also excluded and would need to be provided separately. Because this option requires less extensive design and construction, completion before winter may be possible, although the schedule cannot yet be confirmed.

The Council's August 27 motion authorized a construction amount not to exceed \$150,000. The preliminary project cost estimate for the polyester concrete overlay is approximately \$410,000 and excludes traffic control and approach-roadway work.

The preliminary cost estimate for the methacrylate treatment is approximately \$172,000, also excluding traffic control and approach-roadway work.

Final construction costs cannot be confirmed until the scope is finalized and competitive bids are received for either project.

The methacrylate treatment would be an interim preservation measure and differs from the Caltrans-recommended polyester concrete overlay specifically identified in the Council's direction. Staff is therefore requesting Council direction regarding whether to continue developing the polyester overlay and return with a revised funding request, or instead proceed with development of the methacrylate treatment as a lower-cost interim measure. Updated proposal information may be presented at the meeting.

Bridge Preservation, Project Development, Outreach, and Reporting: Staff will issue a competitive request for proposals/qualifications (RFP/Q) for a qualified bridge-consulting team to address components two through four of the Council's August 27th direction. The solicitation will emphasize demonstrated experience in bridge rehabilitation, historic bridge preservation and retrofitting, the Caltrans local-assistance process, and identification and pursuit of state and federal funding.

Per Council direction, the consultant scope will include development of a plan to retrofit and preserve the existing Stockton Avenue Bridge; evaluation of appropriate debris-mitigation measures; a project-development and funding strategy; support for meaningful community outreach; and technical information to support the City's monthly updates to the Council. The work will be structured so that future engineering, environmental, funding, and Council decision points are clearly identified.

Staff intends to release the RFP/Q in early September. Following proposal review, consultant interviews (if needed), and scope and fee negotiations, staff anticipates returning to the City Council with a recommended contract in late October or early November 2026.

Soquel Creek Inspection and Pre-Winter Coordination: Public Works staff conducts inspection and maintenance coordination along the Soquel Creek corridor each year in advance of the winter rainy season. Staff will complete this year's inspection during September and coordinate, as appropriate, with other agencies and property owners regarding trees, brush, vegetation, or other debris that could obstruct creek flow or create a potential hazard.

Any work will be limited to actions that are legally permissible, environmentally appropriate, and within the authority of the City or the responsible property owner or agency. Staff will prepare a written follow-up report for the City Council identifying the inspection findings, recommended actions, work completed, and any remaining work or coordination required.

Fiscal Impact: The August 27th motion authorized up to \$150,000 for the bridge maintenance construction work, with funding from available remaining Reposa Paving Project funds and, if necessary, from the Emergency Reserve Fund.

The preliminary project cost estimate for the polyester concrete overlay is approximately \$410,000 and excludes traffic control and approach-roadway work.

The preliminary cost estimate for the methacrylate treatment is approximately \$172,000, also excluding traffic control and approach-roadway work.

If Council directs staff to continue developing either project, staff will return with the necessary funding request as cost estimates are refined.

The cost of the broader bridge consulting contract will be presented separately following the RFP/Q process. Routine creek inspection activities are included within the adopted Public Works operating budget; any substantial work identified would be separately evaluated for responsibility, permitting, and funding.

Alignment with 2025-2029 Strategic Plan Priority: Community Safety; Sustainable Infrastructure

Report Prepared By: Jessica Kahn, P.E., Public Works Director

Reviewed By: Julia Gautho, City Clerk; Marc Tran, City Attorney

Approved By: Jamie Goldstein, City Manager

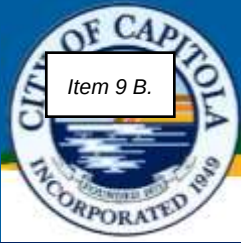


City Council
September 10, 2026

Stockton Avenue Bridge and Soquel Creek Update

Stockton Bridge Update

August 27 Council Direction



Council Direction

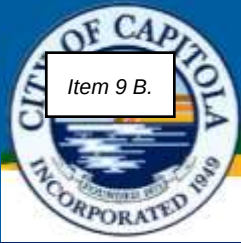
- Implement near-term bridge deck maintenance
- Develop a plan to preserve and retrofit the existing bridge
- Issue RFP for bridge engineer
 - Expertise in bridge rehabilitation,
 - Historic bridge preservation/retrofitting
 - CalTrans process
 - Funding expertise
- Continue community outreach and monthly updates
- Inspect Soquel Creek corridor and coordinate

Implementation

- Near-term deck maintenance design and construction
- Long-term bridge preservation and project development
- Annual Soquel Creek inspection and agency

Stockton Bridge Update

Why Council Direction Is Needed



Engineering Required Before Bidding Maintenance

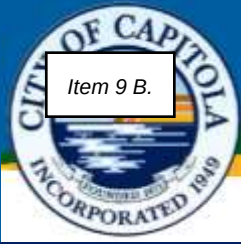
- Caltrans recommends a treatment, but it is not a construction design
- Bridge engineer must define the repairs, prepare PS&E, and establish inspection/testing requirements
- Staff is soliciting proposals for this work

Preliminary Cost Exceeds Authorization

- Polyester-overlay **construction** estimate: \$284,000
- Council authorization: \$150,000
- A lower-cost option has been identified by engineers

Stockton Bridge Update

Near-Term Deck Maintenance Options



Polyester Concrete Overlay

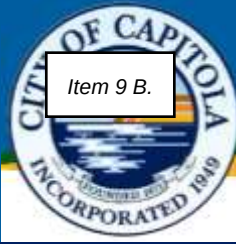
- Caltrans-recommended treatment
- Adds a protective surface but does not restore the deck
- Requires recalculation of load rating, joint replacement, utility modifications, and approach transitions
- Completion before winter is unlikely
- Bridge retrofit may ultimately require new deck

Methacrylate Deck Treatment

- Lower-cost interim treatment
- Seals the deck to help slow further deterioration
- Does not restore or replace the deck
- Completion before winter may be possible

Stockton Bridge Update

Maintenance Options: Cost and Schedule

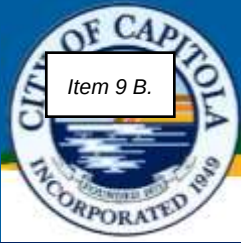


Council authorized up to \$150,000 for construction

	Polyester Overlay	Methacrylate Treatment
Engineering	\$126,000	\$72,000
Construction	\$284,000	\$100,000
Preliminary total*	\$410,000	\$172,000
Treatment	Greater protection	Interim sealing
Before winter preliminary estimates exclude traffic control, approach work, inspection, and materials testing. Could add \$50,000-\$100,000		

Stockton Bridge Update

Additional Council Direction



Bridge Preservation and Project Development

- RFP/Q for rehabilitation, preservation, Caltrans, and funding expertise
- Develop preservation, retrofit, and debris-mitigation plan
- Support outreach and monthly updates
- Consultant recommendation expected

October/November 2026

Soquel Creek Pre-Winter Coordination

- Inspect creek corridor in September
- Identify vegetation and debris hazards
- Coordinate permissible work with agencies and property owners
- Return with findings and remaining actions

Council Direction Requested

1. Receive implementation update
2. Select the near-term deck treatment:
 - Continue developing polyester concrete overlay and return with a revised funding request; or
 - Proceed with methacrylate treatment as a lower-cost interim measure

Capitola City Council

Agenda Report

Meeting: September 10, 2026

From: Public Works Department

Subject: Underground Utility District No. 6 and Rule 20A Program Update



Recommended Action: Receive updated information regarding a potential shortened Rule 20A undergrounding project along Monterey Avenue and provide direction as desired. *(Continued from the August 27, 2026, City Council meeting)*

Background: On August 27, 2026, the City Council received an update regarding Underground Utility District No. 6 and the City's remaining Rule 20A work credits. A link to the prior agenda report is included as Attachment 1. During the meeting, PG&E confirmed the Rule 20A tariff generally requires a Rule 20A project to encompass at least 600 feet or one block. PG&E also confirmed that a portion of an underground utility district may be selected for a shortened project if the selected limits satisfy that requirement. PG&E noted the primary concern with changing the project limits is whether a newly selected segment could be designed and constructed before the Rule 20A program sunsets at the end of 2033.

Following discussion, the Council requested additional information regarding a smaller undergrounding project along Monterey Avenue in District 6A-2. The Council continued the item to September 10, 2026, to allow staff to obtain additional information from PG&E.

Discussion: At the last meeting, Council requested PG&E prepare a preliminary estimate for undergrounding the overhead utilities along Monterey Avenue from Fanmar Way to Cherry Avenue. That estimate was not available prior to the agenda publication but will be distributed as additional material as soon it is received.

As noted at the last Council meeting by PG&E staff, this type of estimate provides an initial indication of whether the shortened Monterey Avenue segment could potentially be completed using the City's remaining Rule 20A work credits. However, the estimate should not be viewed as a complete project budget. Rule 20A credits generally apply to eligible PG&E undergrounding work and do not cover all City costs associated with an undergrounding project.

A newly selected segment would require additional project development, including confirmation of the final limits, utility design, joint-trench coordination, confirmation of participation by telecommunications providers, identification and acquisition of any required easements, coordination of private service conversions, and development of street-restoration and traffic-control requirements. The City would be responsible for costs that are not eligible for Rule 20A credits, including some combination of roadway restoration, street lighting, easement acquisition, traffic control, environmental review, project administration, and utility betterments.

Based on the additional information, the Council may provide one of the following directions:

1. Continue evaluating the Monterey Avenue segment. Direct staff to continue coordinating with PG&E and other utility providers to refine the scope, schedule, and estimated City costs before returning to the Council for a commitment to advance the project.
2. Continue advancing District 6A-1. Direct staff to continue the utility coordination, easement, and project-development work previously initiated for the Bay Avenue and Capitola Avenue area.

3. Take no further action on District No. 6. Discontinue advancement of the undergrounding projects, recognizing that the remaining Rule 20A work credits would expire at the end of 2033.

Fiscal Impact: This item is informational and does not authorize construction or the appropriation of additional funds.

City currently maintains approximately \$3 million in Rule 20A work credits associated with District No. 6. These credits are held and administered by PG&E for eligible undergrounding work and do not cover all project-related costs. The City has not yet received a cost estimate for the directed project on Monterey Ave. PG&E has previously estimated utility undergrounding costs for District 6A-1 at approximately \$4.5 million.

If the Council directs staff to continue evaluating or advancing an undergrounding project, additional City funding would likely be required for project costs that are not eligible for Rule 20A work credits.

Attachments:

1. August 27, 2026, Underground Utility District No. 6 and Rule 20A Program Update Agenda Report
 - a. <https://mccmeetingspublic.blob.core.usgovcloudapi.net/capitolaca-meet-94d53db7b95e40c088cca9b7d948669a/ITEM-Attachment-008-986d052ec2ff46258ae86364ffe31f03.pdf>

Alignment with 2025-2029 Strategic Plan Priority: Accountable Government; Sustainable Infrastructure

Report Prepared By: Jessica Kahn, P.E., Public Works Director

Reviewed By: Julia Gautho, City Clerk; Marc Tran, City Attorney

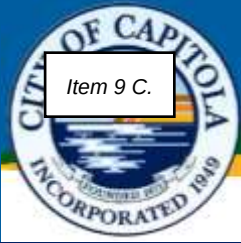
Approved By: Jamie Goldstein, City Manager

Underground Utility District No. 6 and Rule 20A Program Update

City Council

September 10, 2026

Utility District No. 6 and August 20A Council Direction



CPUC Underground Utility Program

- Underground overhead utilities using utility-funded credits
- Administered through PG&E
- Program expires in 2033

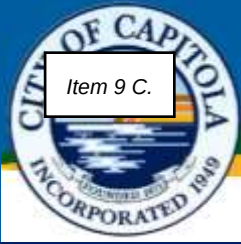
Projects Must Be Within Established Districts

- Limited to previously established underground utility districts
- Rule 20A projects must be 600' or one block

August 27 Council Direction

- Shortened project may be selected in existing district
- Evaluation of Monterey Avenue from Fanmar Way to Cherry Ave
- Item continued for PG&E preliminary estimate

Utility District No. 6 and Rule 20A Credit Status



Current PG&E Rule 20A Credit Balance

- Approximately \$3.08 million available
- Approximately \$45,000 spent on 6A-1 development (not yet deducted)
- Additional planning and coordination costs continue to accrue

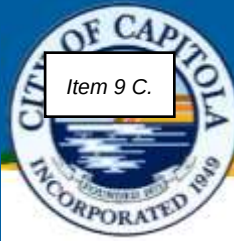
Rule 20A Credits Generally Cover

- Eligible PG&E engineering and coordination
- Eligible PG&E underground construction

Potential City Costs

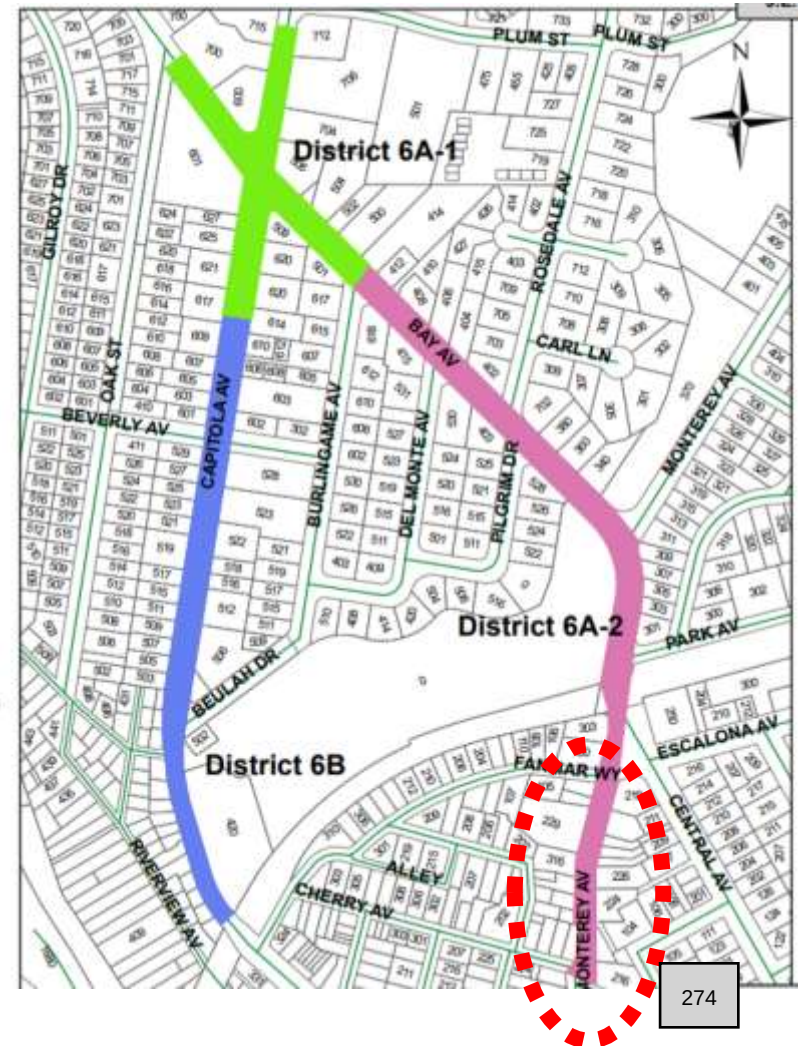
- Easement acquisition
- Roadway and sidewalk restoration
- Replacement street lighting
- Costs exceeding available work credits

Utility District No. 6 and Potential Monterey Avenue Rule 20A Project

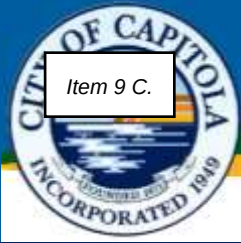


Fanmar Way to Cherry Ave

- Within existing District 6A-2
- Project has not entered



Utility District No. 6 and Monterey Avenue Preliminary Rule 20A Estimate



PG&E Class 5 Estimate **\$2.7 million**

- Based on projected footage, service count, and costs from similar projects.

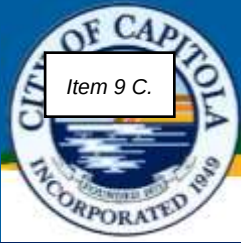
Available Rule 20A Credits **\$3.08 million**

- Approximately \$45,000 in prior 6A-1 costs has not yet been deducted.

Limitations

- Early planning estimate (not a project budget)
- Retaining wall construction may increase cost and schedule
- Additional City funding may be required

Utility District No. 6 and Additional Cost and Schedule Rule 20A Considerations



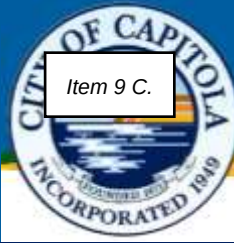
Potential City Costs

- Roadway and sidewalk restoration
- Replacement street lighting
- Easements
- Traffic control and environmental review
- Project administration and cost overruns

Schedule Risk

- Rule 20A funding expires at end of 2033
- PG&E has identified schedule concerns for 6A-1
- Monterey Avenue has not entered design

Utility District No. 6 and Option 20A For Council Direction



Continue Evaluating Monterey Avenue

- Select Monterey Avenue as preferred project and continue coordination with PG&E

Continue Advancing District 6A-1

- Continue utility coordination, easement, and project-development work already underway

Take No Further Action

- Discontinue District No. 6 efforts and allow credits to expire in 2033

Capitola City Council

Agenda Report

Meeting: September 10, 2026

From: Community and Economic Development Department

Subject: Citywide Municipal Code Amendments



Recommended Action: 1) Introduce for first reading, by title only, waiving further reading, an ordinance amending Capitola Municipal Code Title 17 (Zoning) to repeal and replace Chapter 17.88: Incentives for Community Benefits, relocate existing village hotel incentives to Chapter 17.90: Incentives for a Village Hotel with Community Benefits, amend Chapter 17.74: Accessory Dwelling Units, Repeal Chapter 9.08: Tattoo Establishments, make related amendments for Body Art Studios to Chapter 17.20: Mixed Use, Chapter 17.24: Commercial and Industrial Zoning Districts, Chapter 17.96: Supplemental Regulations, and Chapter 17.160 Glossary, and finding that adoption of the ordinance is exempt from CEQA; 2) adopt a resolution authorizing submittal of the proposed changes to the California Coastal Commission for the certification of an amendment to the Local Coastal Program; and 3) approve an administrative policy for the selection of body art service providers.

Background: In 2024, the City Council adopted the 2023-2031 Housing Element of the General Plan (Housing Element). The Housing Element establishes goals and policies for housing production in Capitola as required by state law. The Housing Element also contains programs with required City actions to implement Housing Element policies. The City must complete these actions by the dates specified for each program.

Since adopting the 2023-2031 Housing Element, the City has completed a number of Zoning Code amendments required by the Housing Element, including updating the Residential Multifamily (RM) Zone and the Capitola Mall Zoning Code. One remaining Zoning Code amendment required by Housing Element Program 1.4 calls for changes to Chapter 17.88, Incentives for Community Benefits, to facilitate residential development on commercial corridors.

In addition, amendments to the City's accessory dwelling unit (ADU) regulations are needed to maintain consistency with recent changes in state law. Staff also recommends amendments relating to tattoo establishments ("body art studios") to address legal considerations associated with the City's existing prohibition and to establish appropriate zoning, permitting, and operational standards for this use.

During the Planning Commission's regular meeting on June 4, 2026, the Planning Commission discussed amendments to Chapter 17.88 (Incentives for Community Benefits), Chapter 17.74 (Accessory Dwelling Units), and Chapter 9.08 (Tattoo Establishments) and provided feedback on the topics.

On August 20, 2026, the Planning Commission held a public hearing to consider the proposed amendments and recommended the City Council adopt these amendments. A link to the August 20, 2026, Planning Commission staff report is included as Attachment 4.

Discussion: The proposed municipal code amendments apply to incentives for community benefits, ADU regulations, and body art studios.

Updates to Incentives for Community Benefits: Currently, Capitola Municipal Code Chapter 17.88 (Incentives for Community Benefits) provides incentives for applicants to locate and design development projects in a manner that provides substantial benefits to the community. Eligible projects are limited to 1) projects in the regional commercial (C-R) or community commercial (C-C) zoning districts on a property that fronts 41st Avenue (excluding the Capitola Mall property) or Capitola Road between Clares Street and 42nd Avenue; or 2) a hotel in the former Capitola Theater site in the Mixed-Use Village zoning district.

The Housing Element identifies Chapter 17.88 as a constraint to housing production and calls for the City to establish objective requirements for projects to receive increased height and FAR. In addition, Program

1.4 calls for the City to “expand the incentivized zone for increased FAR and height to facilitate mixed-use development, targeting commercial corridors where key sites are identified for RHNA, in exchange for an expanded list of community benefits that complement mixed use residential development (such as childcare facilities, recreation areas, etc.).”

Redevelopment of the Capitola Mall was previously a community benefit listed in Chapter 17.88 and subject to the incentives of additional height (50 feet) and floor area (2.0). The Housing Element anticipated the Capitola Mall zoning code updates to remain in Chapter 17.88; however, due to the extensiveness of the new incentives and objective standards, redevelopment of the Capitola Mall was removed from Chapter 17.88 and incorporated into Chapter 17.24 (the C-R Zone District), and a new stand-alone chapter was created (Chapter 17.57: Objective Design Standards for Capitola Mall Redevelopment). The updated code allows expanded heights up to 85 feet and excludes parking garages from the FAR on the Capitola Mall property.

At the recommendation of Coastal Commission staff, the proposed Chapter 17.88 amendments (Attachment 1, Exhibit A) move all content pertaining to the Village hotel to a new chapter (Chapter 17.90), with no substantive changes made to this content at this time.

Chapter 17.88, as amended, would apply to the existing “incentivized zone” on 41st Avenue and Capitola Road and includes the following changes:

- Modernizes allowable community benefits to include public open space, land for a transit center, structured public parking, land for a public facility, new commercial space, and a hotel.
- Establishes objective standards for qualifying community benefits.
- To incentivize hotel development, increases allowed hotel height to 60 feet, reduces minimum on-site parking, excludes meeting space from floor area ratio calculation, and replaces the requirement of a conditional use permit with newly established objective design and operational standards for hotels. Planning Commission approval of a design permit remains a requirement for a hotel.
- Incentivizes affordable housing development by allowing one additional concession or waiver for projects that use state density bonus law and provide a qualifying community benefit.
- Replaces subjective approval criteria with reliance on objective findings.
- Requires City Council conceptual review only for projects with a community benefit that must be dedicated to the City (e.g., land for a public facility).

Updates to Accessory Dwelling Units: In 2025, the state of California enacted Assembly Bill 1154 and Senate Bill 543, which amend state ADU and junior ADU (JADU) law. A JADU is a type of ADU with 500 square feet or less created entirely within the walls of an existing single-family home.

The proposed ADU amendments (Attachment 1, Exhibit B) maintain City conformance with state law with the following changes to Chapter 17.74 (Accessory Dwelling Units):

- Clarifies the City’s process for reviewing and acting on ADU and JADU applications.
- Requires JADU owner-occupancy only if JADU has shared sanitation facilities with primary dwelling.
- Allows combining two ADUs and one JADU (subject to limited standards) on a single-family lot.

Updates Related to Body Art Studios: Capitola Municipal Code Chapter 9.08 (Tattoo Establishments) currently states that “It is unlawful to maintain or conduct a tattoo establishment or to maintain and conduct a tattooing business in the City.” This prohibition was established in 1962.

The proposed body art studio amendments (Attachment 1, Exhibit C) repeals Municipal Code Chapter 9.08 (Tattoo Establishments) and amends the Zoning Code as follows:

- Allows body art studios in the C-C, C-R, and MU-V Zoning Districts with a conditional use permit.
- Limits the number of body art studios to two in the C-C and C-R Zoning Districts and one in the MU-V Zoning District, for a total of three studios Citywide.

- Establish an initial 30-day period (after the ordinance becomes effective) for the City to accept applications for a body art studio selection lottery. If the number of applications received exceeds the maximum number of body art studios permitted, the City will hold a lottery to determine which applications may proceed to conditional use permit review. If openings remain after the 30-day period, the City will accept applications on a first-come, first-served basis. The qualification criteria and lottery process are included in a new administrative policy (Attachment 5).
- Establishes standards for hours of operation; minimum separation from schools, places of religious assembly, and other body art studios; visibility of procedures; indoor procedures; prohibits alcohol consumption; age restrictions; and temporary/mobile facilities.

The Zoning Code is part of Capitola's Local Coastal Program (LCP), and as such, Zoning Code Amendments must be certified by the Coastal Commission before they become effective in the Coastal Zone. When adopting LCP amendments, the Coastal Commission requires cities to consider consistency with the LCP Land Use Plan and potential impacts on public access to the coast. This required analysis is provided in Attachment 2. Attachment 3 contains a draft resolution authorizing City staff to submit the Zoning Code Amendments to the Coastal Commission for certification.

Environmental Determination: The Chapter 17.88 amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code 21080.085, which states that "this division does not apply to a rezoning that implements the schedule of actions contained in an approved housing element pursuant to subdivision (c) of Section 65583 of the Government Code." Here, the Housing Element's Program 1.4 calls for the City to update the Zoning Code to facilitate housing production by removing constraints in the City's community benefits program and establishing new objective standards and approval criteria. Because the proposed Chapter 17.88 amendments implement this action, its adoption is exempt from CEQA. The body art studio amendments restricts zoning and cap a highly specific type of retail/service business to a maximum of three storefronts. Currently, personal service uses are allowed in commercial and mixed use zoning districts, and the proposed amendments add body art establishments as a similar allowed use subject to operational standards. Individual body art establishment projects will be evaluated under CEQA.

The proposed ADU Amendments are exempt from CEQA pursuant to Public Resources Code section 21080.17 and CEQA Guidelines section 15282(h), which exempts adoption of ordinances implementing state law regarding accessory dwelling units. The proposed body art studios amendments are categorically exempt from CEQA because it can be seen with certainty that there is no possibility that the adoption of the proposed amendments will have a significant effect on the environment (CEQA Guidelines, 14 Cal. Code of Regs. Section 15061(b)(3)). Currently, personal service uses are allowed in commercial and mixed-use zoning districts, and the proposed amendments add body art establishments as a similar allowed use subject to operational standards.

Fiscal Impact: There are no fiscal impacts associated with the recommended action.

Attachments:

1. Draft Ordinance
 - a. Exhibit A: New Chapter 17.88 (Incentives for Community Benefits) and new Chapter 17.90 (Incentives for a Village Hotel with Community Benefits)
 - b. Exhibit B: Amendments to Chapter 17.74 (Accessory Dwelling Units)
 - c. Exhibit C: Repeal of Chapter 9.08 (Tattoo Establishments), New Section 17.96.080 (Body Art Studios), and amendments to 17.20 (Mixed Use Zoning Districts), Chapter 17.24 (Commercial and Industrial Zoning Districts), and define body art studios in Chapter 17.160 (Glossary)
2. LCP Consistency Analysis
3. LCP Amendment Application Resolution
4. August 20, 2026 Planning Commission staff report and attachments may be viewed at: <https://meetings.municode.com/adaHtmlDocument/index?cc=CAPITOLACA&me=175e29389ef74ee09af4226f91a6bda5&ip=True>
5. Administrative Policy for Body Art Studio Qualification and Lottery

Alignment with 2025-2029 Strategic Plan Priority: Accountable Government; Attainable Housing; Community Safety; Economic Opportunity; Healthy Families, Community, and Environment

Report Prepared By: Katie Herlihy, Community and Economic Development Director

Reviewed By: Julia Gautho, City Clerk; Marc Tran, City Attorney

Approved By: Jamie Goldstein, City Manager

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF CAPITOLA TO ADOPT AMENDMENTS TO AMEND TITLE 17, ZONING CODE, OF THE CAPITOLA MUNICIPAL CODE TO REPEAL AND REPLACE CHAPTER 17.88: INCENTIVES FOR COMMUNITY BENEFITS; RELOCATE EXISTING VILLAGE HOTEL INCENTIVES TO NEW CHAPTER 17.90: INCENTIVES FOR A VILLAGE HOTEL WITH COMMUNITY BENEFITS; AMEND CHAPTER 17.74: ACCESSORY DWELLING UNITS; REPEAL CHAPTER 9.08: TATTOO ESTABLISHMENTS; MAKE RELATED AMENDMENTS FOR BODY ART STUDIOS TO CHAPTER 17.20:MIXED USE AND CHAPTER 17.24 COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS, CHAPTER 17.96: SUPPLEMENTAL REGULATIONS; AND 17.160 GLOSSARY; AND FINDING THAT ADOPTION OF THE ORDINANCE IS EXEMPT FROM CEQA

WHEREAS, on August 22, 2024, the City Council adopted amendments to the 2023-2031 Housing Element of the General Plan (“Housing Element”) and Addendum to the General Plan Final Environmental Impact Report;

WHEREAS, on August 30, 2025, the California Department of Housing and Community Development (“HCD”) certified the Housing Element;

WHEREAS, the Housing Element identifies Zoning Code Chapter 17.88 (Incentives for Community Benefits) as a constraint to housing production and calls for the City to establish objective standards for projects that provide community benefits;

WHEREAS, in 2025, the state enacted AB 1154 and SB 543 which revise the process and timeframe for cities to review and act on accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs), modify owner occupancy requirements for JADUs, and clarify ADU provisions which also apply to JADUs;

WHEREAS, Municipal Code Chapter 9.08 (Tattoo Establishments), adopted in 1962, states that “It is unlawful to maintain or conduct a tattoo establishment or to maintain and conduct a tattooing business in the city.”;

WHEREAS, on May 7, 2026, staff met with California Coastal Commission staff to review proposed amendments to Chapter 17.88 (Incentives for Community Benefits) related to the Capitola Village Hotel and, based on the information provided Coastal staff provided direction to move the Capitola Village Hotel community benefits into a separate chapter of the code and not make changes to the standards;

WHEREAS, on June 4, 2026, the Planning Commission held a study session to provide feedback on proposed amendments to Chapter 17.88 (Incentives for Community Benefits), Chapter 17.74 (Accessory Dwelling Units), and Municipal Code Chapter 9.08 (Tattoo Establishments);

WHEREAS, on July 29, 2026, staff met with the California Department of Housing and Community Development (HCD) to review proposed amendments to Chapter 17.88

and, based on this information, HCD expressed preliminary support for the proposed amendments;

WHEREAS, notice of the amendments availability was mailed and public review drafts were made available on August 14, 2026, in compliance with California Coastal Act public participation requirements and applicable state law;

WHEREAS, Chapter 17.88 amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code 21080.085 which states that CEQA does not apply to a rezoning that implements the schedule of actions contained in an approved housing element, the proposed ADU amendments are exempt from CEQA pursuant to Public Resources Code section 21080.17 and CEQA Guidelines section 15282(h) which exempts adoption of ordinances implementing state law regarding accessory dwelling units, and the proposed body art studios amendments are categorically exempt from CEQA. The body art studio amendments restricts zoning and cap a highly specific type of retail/service business to a maximum of three storefronts. Currently, personal service uses are allowed in commercial and mixed use zoning districts, and the proposed amendments add body art establishments as a similar allowed use subject to operational standards. Individual body art establishment projects will be evaluated under CEQA; therefore, it can be seen with certainty that there is no possibility that the adoption of the proposed amendments will have a significant effect on the environment. (CEQA Guidelines, 14 Cal. Code of Regs. Section 15061(b)(3));

WHEREAS, at a duly noticed public hearing on August 20, 2026 the Planning Commission recommended the City Council adopt the Municipal Code Amendments.

BE IT ORDAINED by the City of Capitola as follows:

Section 1: The above findings are adopted and incorporated herein.

Section 2: Pursuant to Capitola Municipal Code Section 17.144.040 and 17.144.060 and based on substantial evidence in the record:

- a) The proposed Zoning Code Amendments are consistent with the General Plan, including the Housing Element and Land Use Element and any applicable specific plan as provided by Government Code Section 65860.
- b) The proposed Amendments will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.
- c) The proposed Amendments are internally consistent with other applicable provisions of the Zoning Code.

Section 3: The City Council has considered the Amendments' consistency with the certified Local Coastal Program (LCP) and finds the Zoning Code Amendments in conformity with and adequate to carry out the certified Land Use Plan.

Section 4: Title 17 (Zoning) and Chapter 9.08 (Tattoo Establishments) of the Capitola

Municipal Code is amended as set forth in the following exhibits attached hereto and incorporated herein:

- Exhibit A: Repealing Chapter 17.88 (Incentives for Community Benefits and Adopting a new Chapter 17.88 (Incentives for Community Benefits) and relocating existing Village Hotel incentives to a new Chapter 17.90 (Incentives for a Village Hotel with Community Benefits)
- Exhibit B: Amendments to Chapter 17.74 (Accessory Dwelling Units)
- Exhibit C: Repeal of Chapter 9.08 (Tattoo Establishments), New Section 17.96.080 (Body Art Studios), and amendments to 17.20 (Mixed Use Zoning Districts), Chapter 17.24 (Commercial and Industrial Zoning Districts), and define body art studios in Chapter 17.160 (Glossary)

Section 5: Environmental Review.

The City Council finds that:

- The Chapter 17.88 Amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code 21080.085, which states that “This division does not apply to a rezoning that implements the schedule of actions contained in an approved housing element pursuant to subdivision (c) of Section 65583 of the Government Code.” Here, the Housing Element’s Program 1.4 calls for the City to update the Zoning Code to facilitate housing production by removing constraints in the City’s community benefits program and establishing new objective standards and approval criteria. Because the proposed Chapter 17.88 amendments implement this action, its adoption is exempt from CEQA.
- The ADU Amendments are exempt from CEQA pursuant to Public Resources Code section 21080.17 and CEQA Guidelines section 15282(h), which exempts adoption of ordinances implementing state law regarding accessory dwelling units.
- The Body Art Studios Amendments are categorically exempt from CEQA because it can be seen with certainty that there is no possibility that the adoption of the proposed Amendments will have a significant effect on the environment. (CEQA Guidelines, 14 Cal. Code of Regs. Section 15061(b)(3)). Currently, personal service uses are allowed in commercial and mixed use zoning districts, and the proposed amendments add body art establishments as a similar allowed use subject to operational standards.

Section 6: Effective Date.

This Ordinance shall be in full force and effect thirty (30) days from its passage and adoption except that it will not take effect within the coastal zone until certified by the California Coastal Commission. This Ordinance shall be transmitted to the California Coastal Commission and shall take effect in the coastal zone immediately upon certification by the California Coastal Commission or upon the concurrence of the Commission with a determination by the Executive Director that the Ordinance adopted by the City is legally adequate.

Section 7: 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 8: 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 10th day of September, 2026, and was adopted at a regular meeting of the City Council on the — day of _____, 2026, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Margaux Morgan, Mayor

Attest: _____
Julia Gautho, City Clerk

Chapter 17.88**INCENTIVES FOR COMMUNITY BENEFITS**

Sections:

- ~~17.88.010 — Purpose—~~
- ~~17.88.020 — Incentives restricted to added benefits.~~
- ~~17.88.030 — Eligibility—~~
- ~~17.88.040 — Allowable benefits—~~
- ~~17.88.050 — Available incentives—~~
- ~~17.88.060 — Relationship to state density bonus law.~~
- ~~17.88.070 — Application submittal and review.~~
- ~~17.88.080 — Findings.~~
- ~~17.88.090 — Post decision procedures.~~

~~17.88.010 — Purpose.—~~

~~This chapter establishes incentives for applicants to locate and design development projects in a manner that provides substantial benefits to the community. These incentives are intended to facilitate the redevelopment of underutilized properties along 41st Avenue consistent with the vision for the corridor described in the general plan and to encourage the development of a new hotel in the Village as called for by the general plan and the local coastal program (LCP). This chapter does not apply to development on the Capitola Mall property.~~

~~17.88.020 — Incentives restricted to added benefits.~~

~~The city may grant incentives only when the community benefits or amenities offered are not otherwise required by the zoning code or any other provision of local, state, or federal law. Community benefits or amenities must significantly advance general plan and/or LCP goals and/or incorporate a project feature that substantially exceeds the city's minimum requirements.~~

~~17.88.030 — Eligibility.—~~

~~A. Eligibility for Incentive. The city may grant incentives for the following projects:~~

~~1. Projects in the regional commercial (C-R) and community commercial (C-C) zoning districts that:~~

- ~~a. Front 41st Avenue, excluding the Capitola Mall property; or~~
- ~~b. Front Capitola Road between Clares Street and 42nd Avenue; or~~

~~2. A hotel on the former Capitola Theater site (APNs 035-262-04, 035-262-02, 035-262-11, and 035-261-10) in the mixed-use village zoning district.~~

~~B. Setback Required—41st Avenue. Structures on properties fronting the east side of 41st Avenue must be set back a minimum of one hundred feet from the property line abutting a residential property.—~~

~~17.88.040 — Allowable benefits.—~~

~~A. All Eligible Projects. The city may grant incentives to all eligible projects as identified in Section 17.88.030 (Eligibility) that provide one or more of the following community benefits. The public benefit provided shall be of sufficient value as determined by the planning commission to justify deviation from the standards of the zoning district that currently applies to the property.~~

- ~~1. Public Open Space. Public plazas, courtyards, and other public gathering places that provide opportunities for people to informally meet and gather. Open space must be accessible to the general public at all times.— Provision must be made for ongoing operation and maintenance in perpetuity. The public space must either—~~

~~exceed the city's minimum requirement for required open space and/or include quality improvements to the public realm to create an exceptional experience.~~

~~2. Public Infrastructure. Improvements to streets, sidewalks, curbs, gutters, sanitary and storm sewers, street trees, lighting, and other public infrastructure beyond the minimum required by the city or other public agency.~~

~~3. Pedestrian and Bicycle Facilities. New or improved pedestrian and bicycle pathways that enhance the property and connectivity to the surrounding neighborhood.~~

~~4. Low-Cost Visitor Serving Amenities. New or improved low-cost visitor serving recreational opportunities or accommodations within the Central Village area.~~

~~5. Transportation Options. Increased transportation options for residents and visitors to walk, bike, and take public transit to destinations and reduce greenhouse gas emissions.~~

~~6. Historic Resources. Preservation, restoration, or rehabilitation of a historic resource.~~

~~7. Public Parking. A public parking structure that provides parking spaces in excess of the required number of parking spaces for use by the surrounding commercial district. Excess parking provided as part of a Village hotel may not be located on the hotel site and must be located outside of the mixed-use village zoning district.~~

~~8. Green Building. Green building and sustainable development features that exceed the city's green building award status.~~

~~9. Public Art. Public art that exceeds the city's minimum public art requirement and is placed in a prominent and publicly accessible location.~~

~~10. Child Care Facilities. Child care centers and other facilities providing daytime care and supervision to children.~~

~~11. Other Community Benefits. Other community benefits not listed above, such as entertainment destinations, as proposed by the applicant that are significant and substantially beyond normal requirements.~~

~~B. 41st Avenue/Capitola Road Projects. In addition to the community benefits in subsection A of this section, the city may grant incentives to eligible projects fronting 41st Avenue or Capitola Road between Clares Street and 42nd Avenue (excluding the Capitola Mall property) that provide one or more of the following community benefits:~~

~~1. Surface Parking Lot Redevelopment. Redevelopment of existing surface parking lots fronting 41st Avenue and Capitola Road while introducing new sidewalk-oriented commercial buildings that place commercial uses along the street frontage.~~

17.88.050 — Available incentives.

~~A. 41st Avenue/Capitola Road Projects. The city may grant the following incentives to an eligible project fronting 41st Avenue, Capitola Road between Clares Street and 42nd Avenue (excluding the Capitola Mall property):~~

~~1. An increase in the maximum permitted floor area ratio (FAR) to 2.0.~~

~~2. An increase in the maximum permitted building height to fifty feet.~~

~~B. Village Hotel. The city may grant the following incentives to a proposed hotel on the former Capitola Theater site (APNs 035-262-04, 035-262-02, 035-262-11, and 035-261-10):~~

~~1. An increase in the maximum permitted floor area ratio (FAR) to 3.0.~~

~~2. An increase to the maximum permitted building height; provided, that:~~

- ~~a. The maximum height of the hotel (including all rooftop architectural elements such as chimneys, cupolas, etc., and all mechanical appurtenances such as elevator shafts, HVAC units, etc.) remains below the elevation of the bluff behind the hotel;~~
- ~~b. The bluff behind the hotel remains visible as a green edge (i.e., the upper bluff (i.e., below the blufftop edge) and upper bluff vegetation shall remain substantially visible across the length of the project site) when viewed from the southern parking area along the bluff of Cliff Drive (i.e., the parking area seaward of Cliff Drive and closest to Opal Cliff Drive) and from the Capitola wharf;~~
- ~~c. Existing mature trees shall be maintained on the site, except that trees that are unhealthy or unsafe may be removed; and~~
- ~~d. The rooftop shall be aesthetically pleasing and shall not significantly adversely affect public views from Cliff Avenue on Depot Hill. In addition to modifications to avoid structural incursions into this view, this can be accomplished through design features on top of the roof as well (e.g., use of a living roof, roof colors and materials that reduce its visual impacts, etc.). Rooftop appurtenances (e.g., elevator shafts, HVAC units, vents, solar panels, etc.) shall be screened from public view and integrated into/within the above-referenced rooftop design features to the greatest extent feasible.—~~

17.88.060 — Relationship to state density bonus law.

The incentives allowed by this section are in addition to any development incentive required by Section 65915 of the California Government Code.—

17.88.070 — Application submittal and review.

A. Request Submittal. A request for an incentive in exchange for benefits shall be submitted concurrently with an application for the discretionary permits required for the project by the zoning code. Applications shall be accompanied by the following information:

- ~~1. A description of the proposed amenities and how they will benefit the community.~~
- ~~2. All information needed by the city council to make the required findings described in Section 17.88.080 (Findings), including a pro forma analysis demonstrating that the benefit of the proposed amenities to the community is commensurate with the economic value of the requested incentives.~~

~~B. Conceptual Review. Prior to city action on a request for an incentive, the request shall be considered by the planning commission and city council through the conceptual review process as described in Chapter 17.114 (Conceptual Review). Conceptual review provides the applicant with nonbinding input from the city council and planning commission as to whether the request for incentives is worthy of consideration.~~

~~C. Theater Site Story Poles. Prior to city action on a proposed hotel on the former Capitola Theater site the planning commission or city council may require the applicant to install poles and flagging on the site to demonstrate the height and mass of the proposed project.~~

~~D. Planning Commission Recommendation. Following conceptual review, the planning commission shall provide a recommendation to the city council on the proposed project and requested incentives at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).~~

~~E. City Council Action. After receiving the planning commission's recommendation, the city council shall review and act on the requested incentives at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings). The city council shall also review and act on other permits required for the project requesting incentives.—~~

17.88.080 — Findings.

~~A. All Eligible Projects. The city council may approve the requested incentives for all eligible projects only if all of the following findings can be made in addition to the findings required for any other discretionary permit required by the zoning code:~~

EXHIBIT A

Item 9 D.

- ~~1. The proposed amenities will provide a substantial benefit to the community and advance the goals of the general plan.~~
- ~~2. There are adequate public services and infrastructure to accommodate the increased development potential provided by the incentive.~~
- ~~3. The public benefit exceeds the minimum requirements of the zoning code or any other provisions of local, state, or federal law.~~
- ~~4. The project minimizes adverse impacts to neighboring properties to the greatest extent possible.~~
- ~~5. If in the coastal zone and subject to a coastal development permit, the project enhances coastal resources.~~

~~B. Village Hotel. In addition to the findings in subsection A of this section, the city council may approve the requested incentives for a proposed hotel on the former Capitola Theater site only if the following findings can be made:~~

- ~~1. The design of the hotel respects the scale and character of neighboring structures and enhances Capitola's unique sense of place.~~
- ~~2. The hotel will contribute to the economic vitality of the Village and support an active, attractive, and engaging pedestrian environment.~~
- ~~3. Hotel siting and design will (a) minimize impacts to public views, including views of the beach and Village from vantage points outside of the Village and from Cliff Avenue and Depot Hill behind the hotel; and (b) does not adversely impact any significant public views of the coastline as identified in the LCP's land use plan.~~
- ~~4. Parking for the hotel is provided in a way that minimizes vehicle traffic in the Village, strengthens the Village as a pedestrian-oriented destination, and protects public parking options.~~

~~17.88.090 — Post decision procedures.~~

~~Post decision procedures and requirements in Chapter 17.156 (Post Decision Procedures) shall apply to decisions on incentives for community benefits.~~

Chapter 17.88**INCENTIVES FOR COMMUNITY BENEFITS****Sections:**

- 17.88.010 Purpose.
- 17.88.020 Incentives restricted to added benefits.
- 17.88.030 Eligibility.
- 17.88.040 Allowable community benefits.
- 17.88.050 Available incentives.
- 17.88.060 Residential transition standards.
- 17.88.070 Hotel standards.
- 17.88.080 Application submittal and review.
- 17.88.090 Findings.
- 17.88.100 Post-decision procedures.

17.88.010 Purpose.

This chapter establishes incentives for applicants to locate and design development projects in a manner that provides substantial benefits to the community. These incentives are intended to facilitate the redevelopment of underutilized properties along 41st Avenue and Capitola Road consistent with the vision for the corridors described in the general plan. This chapter does not apply to development on the Capitola Mall property bound by 41st Avenue, Capitola Road and Clares Street.

17.88.020 Incentives restricted to added benefits.

The city may grant incentives only when the community benefits or amenities offered are not otherwise required by the zoning code or any other provision of local, state, or federal law. Community benefits or amenities must significantly advance general plan and/or LCP goals and/or incorporate a project feature that substantially exceeds the city's minimum requirements.

17.88.030 Eligibility.

Eligibility for the incentives described in this chapter is limited to projects in the regional commercial (C-R) and community commercial (C-C) zoning districts that:

- A. Front 41st Avenue, excluding the Capitola Mall property; or
- B. Front Capitola Road between Clares Street and 42nd Avenue, excluding the Capitola Mall property.

17.88.040 Allowable community benefits.

The city may grant incentives to projects located on eligible properties as identified in Section 17.88.030 (Eligibility) that provide one or more of the following community benefits.

- A. **Public Open Space.** Public plazas, courtyards, and other public gathering places that provide opportunities for people to informally meet and gather, that satisfy all of the following:
 - 1. A minimum of 5 percent of the project site area, or 3,000 square feet, whichever is greater, shall be provided as additional open space as a community benefit. The open space shall be provided in addition to any minimum open space required by the applicable zoning district.
 - 2. A minimum of 25 percent of the open space area shall be planted with ground cover and/or shrubs.
 - 3. A minimum of one tree shall be planted per 400 square feet of open space.
 - 4. The open space shall be publicly accessible for a minimum of 12 consecutive hours per day or during daylight hours, whichever is longer.

5. The open space shall be directly accessible and visible from a publicly accessible street or pathway.
 6. The open space shall have a minimum dimension of 20 feet in any direction.
 7. The open space shall have permanent seating (e.g., seat walls, planter ledges, benches, picnic tables, and seating steps).
 8. The open space shall include lighting for nighttime use.
 9. The open space must be either dedicated to the city or privately owned and maintained with dedication of a public access easement.
- B. Transit Center.** Land dedication or public easements for a public transit facility that satisfies all of the following:
1. The site accommodates a permanent public transit facility consistent with Santa Cruz METRO plans and requirements.
 2. The site is of sufficient size, configuration, location, and condition to accommodate the intended transit facilities and associated passenger amenities.
 3. The site provides direct and convenient access from a public street and is located where it can effectively serve the surrounding commercial district.
 4. The site is accessible to pedestrians and bicyclists and provides safe connections to existing or planned pedestrian and bicycle facilities.
 5. The site will accommodate a transit center with passenger loading and unloading areas, shelters, seating, lighting, wayfinding, and other amenities required by Santa Cruz METRO.
- C. Public Parking.** Construction of a parking structure that provides parking spaces in excess of the number of parking spaces required for the project, that satisfies all of the following:
1. The structure provides a minimum of 25 parking spaces in excess of the spaces required for the project, or additional spaces equal to 20 percent of the project's required parking, whichever is greater.
 2. The additional parking spaces shall be available for use by the general public and shall not be reserved exclusively for the project's tenants, employees, customers, or residents.
 3. The additional parking spaces shall be located and designed to serve the surrounding commercial district and shall be reasonably accessible from a public street or publicly accessible pedestrian connection.
 4. The additional public parking shall be maintained and available for public use for the life of the development, unless the city council approves an alternative arrangement that provides an equivalent or greater public benefit.
 5. The parking structure shall include safe and convenient pedestrian connections between the parking facility and surrounding public streets, sidewalks, and commercial uses.
 6. The applicant shall be responsible for the construction, maintenance, operation, and other costs associated with the additional public parking spaces, unless otherwise agreed to by the city.
- D. Land for Public Facility.** Dedication of land to the city for a public facility that satisfies all of the following:
1. The property is accepted by the city for the specific public facility.
 2. The property is of sufficient size and configuration to accommodate the intended facility.
 3. The property has direct access from a public street.
 4. The property is legally developable and does not have constraints that substantially limit its use.

5. The property is conveyed free and clear of liens, encumbrances, hazardous materials, and other conditions that would prevent the city's use, or require the applicant to address them.
6. The property has utilities reasonably available or is capable of being served.
7. The property is permanently dedicated to, or secured for the benefit of, the city for the life of the public facility. The dedication may be accomplished through fee title conveyance or through a long-term lease or other legally binding agreement acceptable to the city, provided that the agreement has a term sufficient to ensure the continued availability and operation of the public facility for its useful life and provides the city with rights sufficient to develop, operate, maintain, and, if necessary, replace the facility.

E. New Commercial Space. New commercial space that satisfies all of the following:

1. Minimum net increase. The project provides net new commercial floor area equal to at least 10 percent of the project's total gross floor area, with a minimum of 5,000 square feet and a maximum requirement of 30,000 square feet. A project may provide more than 30,000 square feet of net new commercial floor area; however, no more than 30,000 square feet shall be required to satisfy this section. For purposes of this section, "net new commercial floor area" means commercial floor area proposed as part of the project that exceeds the amount of existing commercial floor area removed or replaced by the project.
2. No net loss. There is no net loss of existing commercial space on the site. Only commercial space provided in excess of the amount replaced shall count as net new commercial floor area. For purposes of calculating the required net new commercial floor area, the amount of existing commercial floor area on the site shall be established based on legally established floor area existing at the time of application. Commercial floor area that is demolished or converted to another use shall be counted as existing commercial floor area for purposes of determining the required replacement area.
3. Qualifying new uses. The minimum required commercial space shall be occupied by active, publicly accessible commercial, cultural, or entertainment uses open to the general public, including retail sales, restaurants, food and beverage establishments, and similar visitor-serving uses. Medical offices and clinics and uses that are membership-based personal service uses, including gyms, fitness centers, and yoga studios, shall not count toward the minimum required commercial floor area.
4. Phased development. Where a project is developed in phases, the required net new commercial floor area shall be provided proportionately with the development phases, unless an alternative phasing plan is approved by the City.

F. Hotel. A new hotel that satisfies all of the following:

1. Hotel Use Requirements.
 - a. The hotel shall be maintained and operated for transient occupancy for a minimum of 30 years from the date of issuance of the certificate of occupancy. During the required operating period, the hotel use shall not be discontinued, converted, or redeveloped for residential, office, or other non-transient use except as provided in subsection c below.
 - b. Prior to issuance of a building permit, the property owner shall execute and record a covenant, in a form approved by the City Attorney, requiring compliance with this subsection. The covenant shall run with the land and be binding upon all owners, successors, and assigns for the duration of the required operating period. The covenant shall not be amended, released, or terminated without approval of the City Council.
 - c. During the minimum 30-year operating period, the city council may approve the discontinuation, conversion, or redevelopment of the hotel for a non-transient use only if the applicant demonstrates, based on substantial evidence, that continued operation as a hotel is no longer economically feasible despite reasonable efforts to maintain and operate the hotel as a transient lodging facility. Any approved conversion shall be subject to such conditions as the city council determines necessary to protect the city's community and economic development goals and objectives.

2. Hotel Amenities. The project shall provide all required hotel-related amenities, parking, loading, and other facilities necessary to support hotel operations, and shall comply with all requirements in Section 17.88.070 (Hotel Standards).

17.88.050 Available incentives.

The city may grant incentives to eligible projects as identified in Section 17.88.030 (Eligibility) that provide one or more of the benefits identified in Section 17.88.040 (Allowable Community Benefits).

A. Project Categories. For purposes of determining available incentives, eligible projects that provide community benefits are classified as follows:

1. “General projects” are all projects that:
 - a. Do not include a qualifying hotel; and
 - b. Do not use state density bonus law (Government Code Sections 65915 through 65918).
2. “Hotel projects” are projects that include a qualifying hotel and do not use state density bonus law.
3. “Density bonus projects” are projects providing affordable and/or senior housing using state density bonus law.

B. General Projects. The city may grant the following incentives to qualifying general projects:

1. An increase in the maximum permitted floor area ratio (FAR) to 2.0.
2. An increase in the permitted building height to a maximum of 50 feet.

C. Hotel Projects. The city may grant the following incentives to qualifying hotel projects:

1. An increase in the maximum permitted floor area ratio (FAR) to 2.0.
2. An increase in the permitted building height to a maximum of 60 feet.
3. Reduced minimum on-site parking spaces as follows:
 - a. Minimum of 0.75 parking spaces per guest room plus 1 parking space per 500 square feet of office area.
 - b. Meeting space and conference facilities shall not require additional on-site parking spaces, provided the facilities are operated as part of the hotel and are not independently leased or operated as a primary assembly or event venue.
4. Meeting space and conference facilities are excluded from the floor area used to calculate a project’s floor area ratio (FAR).
5. The hotel is required to obtain approval of a design permit and must conform with all design standards and operational standards in Section 17.88.070 (Hotel Standards). The hotel is allowed as a permitted use without the requirement to obtain a conditional use permit.

D. Density Bonus Projects.

1. For a qualifying density bonus project that provides a community benefit under this chapter, the city may grant one additional density bonus concession or incentive beyond the number specified in Government Code Section 65915(d)(2).
2. The additional density bonus concession or incentive available for providing a community benefit is supplemental and in addition to the benefits available to the project under state density bonus law.
3. A density bonus project shall not receive increased FAR or height as an incentive for providing a community benefit under this chapter. The project may request increased FAR or height as a concession.

incentive, or waiver under state density bonus law.

4. For a project that uses state density bonus law, the project's base density shall be calculated solely from the objective development standards applicable to the zoning of the site before application of any incentives available under this chapter or any concession, incentive, waiver, or density increase available under state density bonus law.
5. Nothing in this chapter shall be construed to limit or interfere with an applicant's rights under Government Code Sections 65915 through 65918.

17.88.060 Residential transition standards.

- A. **All Projects.** All projects receiving incentives for community benefits under this chapter shall comply with the setback, daylight plane, landscaping, and loading standards in Section 17.24.030.E (Residential Transition Standards).
- B. **East Side of 41st Avenue.** In addition to complying with Section 17.24.030.E (Residential Transition Standards), structures on properties fronting the east side of 41st Avenue must be set back a minimum of 100 feet from the property line abutting a residential property.

17.88.070 Hotel standards.

The following standards apply to a hotel approved pursuant to this chapter.

A. Design Standards.

1. **Street Presence.** A minimum of one hotel building facade shall front a street in compliance with the following:
 - a. Surface parking lots are prohibited between the building facade and the street-adjacent sidewalk.
 - b. Street parking and porte-cocheres drop-off areas are permitted between the building facade and the street.
 - c. A building entrance accessed from the sidewalk shall provide access to the hotel lobby.
 - d. Loading docks and service areas may not be located on a street frontage.
2. **Parking Location.** Existing and new surface parking is permitted along all other building facades that do not provide the street presence as required by paragraph (1) of this subsection.
3. **Windows and Doors.** All windows above the ground floor shall include trim, reveals, recesses, or other detailing to define window openings.
4. **Rooftop Mechanical Equipment.** Rooftop mechanical equipment, including vents and stacks, shall be fully screened from view by an architectural feature, such as a parapet wall.
5. **Materials.** The following exterior facade materials are prohibited on any building elevation facing a street or publicly accessible open space:
 - a. Vinyl siding.
 - b. T-111 plywood siding.
 - c. Plastic or PVC-based siding systems.
 - d. Exterior insulation and finish systems (EIFS) used for architectural decoration, trim or accent materials.
 - e. Simulated stone within the first 20 feet above the adjacent grade.
 - f. Veneer products that are not rated for impact resistance within the first thirty inches above the

adjacent grade.

g. Corrugated metal used as a primary facade material (roof and facade accents allowed).

B. Operational Standards.

1. Site Operations.

- a. **Site Access.** The hotel shall maintain unobstructed access, consistent with the minimum widths and clearances required by the California Fire Code and Chapter 17.76 (Parking and Loading), for pedestrians, bicycles, passenger vehicles, deliveries, emergency vehicles, and solid waste collection vehicles.
- b. **Guest Loading and Queuing.** Guest loading, passenger drop-off, valet operations, and queuing shall be accommodated entirely on-site and shall not obstruct public streets, sidewalks, drive aisles, fire lanes, or required parking spaces.
- c. **Delivery and Service Operations.**
 - i. Loading and service areas shall be physically separated from guest entrances and required guest parking areas by a building wall, fencing, landscaping, or a minimum horizontal separation of 15 feet, and shall not share a common driveway or drive aisle with the primary guest entrance during hotel operating hours.
 - ii. All routine commercial deliveries, linen services, food and beverage deliveries, and service vehicles shall load and unload entirely on-site within designated loading areas or off-street parking spaces. Delivery vehicles shall not idle on public streets or block public rights-of-way.
- d. **Emergency Access.** Fire lanes, emergency access routes, hydrants, and fire department connections shall remain unobstructed at all times.
- e. **Public Utilities.** The hotel shall maintain connections to all required public utilities and infrastructure necessary to serve the development.

2. Neighborhood Compatibility.

- a. **Hours for Outdoor Amenities.** Outdoor guest amenities, including pools, spas, patios, courtyards, rooftop gathering areas, and similar common areas, shall not be used between the hours of 10:00 p.m. and 7:00 a.m., except for pedestrian access.
- b. **Exterior Lighting.** Exterior lighting fixtures shall be full cutoff or fully shielded, directed downward, and shall not exceed 0.5 foot-candles measured at any adjoining property line or public right-of-way.
- c. **Mechanical Equipment.** Mechanical equipment shall comply with the noise standards of Chapter 9.12 (Noises) and Capitola General Plan Noise Element and shall be fully screened from view from adjoining properties and public rights-of-way.
- d. **Loading and Service Hours.** Loading activities, refuse collection, and routine service deliveries using vehicles exceeding two axles shall occur only between 7:00 a.m. and 10:00 p.m. when the loading area is located within 100 feet of a residential zoning district, school, park, or another hotel or lodging use.
- e. **Environmental Impacts.** Hotel operations shall comply with all applicable city standards regulating noise, lighting, smoke, odor, dust, vibration, and other environmental impacts.

3. Maintenance and Safety.

- a. **Property Maintenance.** Buildings, parking areas, driveways, landscaping, fencing, lighting, and other site improvements shall be maintained free of broken, missing, or structurally damaged

materials; peeling or faded paint visible from adjoining properties or public rights-of-way; and holes, cracks, or other surface deterioration beyond normal wear.

- b. **Graffiti Removal.** Graffiti shall be removed within 72 hours of discovery.
- c. **Landscape Maintenance.** Dead, diseased, or damaged landscaping shall be replaced within 60 days, weather permitting.
- d. **Waste Collection Areas.**
 - i. Trash, recycling, and organic waste containers shall be maintained within required enclosures except during collection.
 - ii. Waste storage areas shall be sized to accommodate all anticipated trash, recyclable materials, and organic waste generated by the hotel, guest rooms, and accessory uses without overflow.
- e. **Outdoor Storage.** Outdoor storage of equipment, furniture, supplies, or materials shall be prohibited except where specifically authorized by this code.
- f. **Community Contact.** The hotel shall designate an on-site or on-call manager available 24 hours a day to respond to operational concerns from guests, neighbors, and the public, and shall post the manager's contact telephone number at the primary guest entrance and provide it to the city's Community and Economic Development Department.

4. Municipal and Tax Compliance.

- a. **Business License and Taxes.** The hotel shall maintain an active, valid city business license at all times and shall remain fully compliant with all applicable provisions of the Municipal Code regarding the collection, reporting, and remittance of Transient Occupancy Tax (TOT) and any applicable Tourism Marketing District (TMD) assessments. Operational noncompliance with tax reporting or remittance obligations shall constitute a violation of this zoning standard.

17.88.080 Application submittal and review.

- A. **Request Submittal.** A request for an incentive in exchange for community benefits shall be submitted concurrently with an application for the discretionary permits required for the project by the zoning code. Applications shall be accompanied by the following information:
 - 1. A description of the proposed amenities and how they will benefit the community.
 - 2. All information needed by the city council to make the required findings described in Section 17.88.090 (Findings).
- B. **Conceptual Review.** For a projects with a community benefit that must be dedicated to the city (e.g., land for a public facility), the project shall be considered by the city council through the conceptual review process as described in Chapter 17.114 (Conceptual Review).
- C. **Planning Commission Recommendation.** Following conceptual review, the planning commission shall provide a recommendation to the city council on the proposed project and requested incentives at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).
- D. **City Council Action.** After receiving the planning commission's recommendation, the city council shall review and act on the requested incentives at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings). The city council shall also review and act on other permits required for the project requesting incentives.

17.88.090 Findings.

The city council may approve the requested incentives for an eligible project only if all of the following findings can be made in addition to the findings required for any other discretionary permit required by the zoning code:

EXHIBIT A

Item 9 D.

- A. The community benefits conform with all applicable objective standards.
- B. The community benefits exceeds the minimum requirements of the zoning code or any other provision of local, state, or federal law.

17.88.100 Post-decision procedures.

Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) shall apply to decisions on incentives for community benefits.

Chapter 17.90

INCENTIVES FOR A VILLAGE HOTEL WITH COMMUNITY BENEFITS

Sections:

- 17.90.010 Purpose.
- 17.90.020 Incentives restricted to added benefits.
- 17.90.030 Eligibility.
- 17.90.040 Allowable benefits.
- 17.90.050 Available incentives.
- 17.90.060 Application submittal and review.
- 17.90.070 Findings.
- 17.90.080 Post-decision procedures.

17.90.010 Purpose.

This chapter establishes incentives for the development of a new hotel in the Village in a manner that provides substantial benefits to the community. These incentives are intended to encourage the development of a new Village hotel as called for by the general plan and the local coastal program (LCP).

17.90.020 Incentives restricted to added benefits.

The city may grant incentives for a Village hotel only when the community benefits or amenities offered are not otherwise required by the zoning code or any other provision of local, state, or federal law. Community benefits or amenities must significantly advance general plan and/or LCP goals and/or incorporate a project feature that substantially exceeds the city's minimum requirements.

17.90.030 Eligibility.

The city may grant incentives provided in this chapter for a hotel on the former Capitola Theater site (APNs 035-262-04, 035-262-02, 035-262-11, and 035-261-10) in the Mixed Use Village (MU-V) zoning district.

17.90.040 Allowable benefits.

The city may grant incentives to a Village hotel project that provides one or more of the following community benefits. The public benefits provided shall be of sufficient value as determined by the planning commission to justify deviation from the standards of the zoning district that currently applies to the property.

A. Public Open Space. Public plazas, courtyards, and other public gathering places that provide opportunities for people to informally meet and gather. Open space must be accessible to the general public at all times. Provision must be made for ongoing operation and maintenance in perpetuity. The public space must either exceed the city's minimum requirement for required open space and/or include quality improvements to the public realm to create an exceptional experience.

B. Public Infrastructure. Improvements to streets, sidewalks, curbs, gutters, sanitary and storm sewers, street trees, lighting, and other public infrastructure beyond the minimum required by the city or other public agency.

C. Pedestrian and Bicycle Facilities. New or improved pedestrian and bicycle pathways that enhance the property and connectivity to the surrounding neighborhood.

D. Low-Cost Visitor Serving Amenities. New or improved low-cost visitor serving recreational opportunities or accommodations within the Central Village area.

E. Transportation Options. Increased transportation options for residents and visitors to walk, bike, and take public transit to destinations and reduce greenhouse gas emissions.

F. Historic Resources. Preservation, restoration, or rehabilitation of a historic resource.

G. Public Parking. A public parking structure that provides parking spaces in excess of the required number of parking spaces for use by the surrounding commercial district. Excess parking provided as part of a Village hotel may not be located on the hotel site and must be located outside of the mixed use village zoning district.

H. Green Building. Green building and sustainable development features that exceed the city's green building award status.

I. Public Art. Public art that exceeds the city's minimum public art requirement and is placed in a prominent and publicly accessible location.

J. Child Care Facilities. Child care centers and other facilities providing daytime care and supervision to children.

K. Other Community Benefits. Other community benefits not listed above, such as entertainment destinations, as proposed by the applicant that are significant and substantially beyond normal requirements.

17.90.050 Available incentives.

The city may grant the following incentives to an eligible Village hotel project:

A. An increase in the maximum permitted floor area ratio (FAR) to 3.0.

B. An increase to the maximum permitted building height; provided, that:

1. The maximum height of the hotel (including all rooftop architectural elements such as chimneys, cupolas, etc., and all mechanical appurtenances such as elevator shafts, HVAC units, etc.) remains below the elevation of the bluff behind the hotel;

2. The bluff behind the hotel remains visible as a green edge (i.e., the upper bluff (i.e., below the blufftop edge) and upper bluff vegetation shall remain substantially visible across the length of the project site) when viewed from the southern parking area along the bluff of Cliff Drive (i.e., the parking area seaward of Cliff Drive and closest to Opal Cliff Drive) and from the Capitola wharf;

3. Existing mature trees shall be maintained on the site, except that trees that are unhealthy or unsafe may be removed; and

4. The rooftop shall be aesthetically pleasing and shall not significantly adversely affect public views from Cliff Avenue on Depot Hill. In addition to modifications to avoid structural incursions into this view, this can be accomplished through design features on top of the roof as well (e.g., use of a living roof, roof colors and materials that reduce its visual impacts, etc.). Rooftop appurtenances (e.g., elevator shafts, HVAC units, vents, solar panels, etc.) shall be screened from public view and integrated into/within the above-referenced rooftop design features to the greatest extent feasible.

17.90.060 Application submittal and review.

A. Request Submittal. A request for an incentive in exchange for benefits shall be submitted concurrently with an application for the discretionary permits required for the project by the zoning code. Applications shall be accompanied by the following information:

1. A description of the proposed amenities and how they will benefit the community.

2. All information needed by the city council to make the required findings described in Section 17.90.080 (Findings), including a pro forma analysis demonstrating that the benefit of the proposed amenities to the community is commensurate with the economic value of the requested incentives.

B. Conceptual Review. Prior to city action on a request for an incentive, the request shall be considered by the planning commission and city council through the conceptual review process as described in Chapter 17.114 (Conceptual Review). Conceptual review provides the applicant with nonbinding input from the city council and planning commission as to whether the request for incentives is worthy of consideration.

C. Theater Site Story Poles. Prior to city action on a proposed hotel on the former Capitola Theater site, the planning commission or city council may require the applicant to install poles and flagging on the site to demonstrate the height and mass of the proposed project.

D. Planning Commission Recommendation. Following conceptual review, the planning commission shall provide a recommendation to the city council on the proposed project and requested incentives at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings).

E. City Council Action. After receiving the planning commission's recommendation, the city council shall review and act on the requested incentives at a noticed public hearing in compliance with Chapter 17.148 (Public Notice and Hearings). The city council shall also review and act on other permits required for the project requesting incentives.

17.90.070 Findings.

The city council may approve the requested incentives for a proposed Village hotel project only if all of the following findings can be made in addition to the findings required for any other discretionary permit required by the zoning code:

A. The proposed amenities will provide a substantial benefit to the community and advance the goals of the general plan.

B. There are adequate public services and infrastructure to accommodate the increased development potential provided by the incentive.

C. The public benefit exceeds the minimum requirements of the zoning code or any other provisions of local, state, or federal law.

D. The project minimizes adverse impacts to neighboring properties to the greatest extent possible.

E. If in the coastal zone and subject to a coastal development permit, the project enhances coastal resources.

F. The design of the hotel respects the scale and character of neighboring structures and enhances Capitola's unique sense of place.

G. The hotel will contribute to the economic vitality of the Village and support an active, attractive, and engaging pedestrian environment.

H. Hotel siting and design will (a) minimize impacts to public views, including views of the beach and Village from vantage points outside of the Village and from Cliff Avenue and Depot Hill behind the hotel; and (b) not adversely impact any significant public views of the coastline as identified in the LCP's land use plan.

I. Parking for the hotel is provided in a way that minimizes vehicle traffic in the Village, strengthens the Village as a pedestrian-oriented destination, and protects public parking options.

17.90.080 Post-decision procedures.

Post-decision procedures and requirements in Chapter 17.156 (Post-Decision Procedures) shall apply to decisions on incentives for a Village hotel with community benefits.

Chapter 17.74

ACCESSORY DWELLING UNITS

17.74.010 Purpose.

A. This chapter establishes standards for the location and construction of accessory dwelling units (ADUs) consistent with Government Code Sections 66310 through 66342. These standards are intended to allow accessory dwelling units as a form of affordable housing in Capitola while maintaining the character and quality of life of residential neighborhoods.

B. It is the city's intent for this chapter to be consistent with state law as it is amended from time to time. In case of conflict between this chapter and state law, state law governs unless local variation is permitted. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

17.74.020 Definitions.

Terms used in this chapter are defined as follows. If a definition below conflicts with a definition in Chapter 17.160 (Glossary), the definition below controls.

A. "Accessory dwelling unit" means an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated. An accessory dwelling unit also includes an efficiency unit and a manufactured home, as defined in Section 18007 of the Health and Safety Code.

B. "Attached accessory dwelling unit" means an accessory dwelling unit that:

1. Shares at least one common wall with the primary dwelling unit; and
2. Is not fully contained within the existing space of the primary dwelling unit.

C. "Detached accessory dwelling unit" means an accessory dwelling unit that does not share a common wall with the primary dwelling unit and is not an internal accessory dwelling unit.

D. "Internal accessory dwelling unit" means an accessory dwelling unit that is fully contained within the existing space of the primary dwelling unit or an accessory structure.

E. "Junior accessory dwelling unit" means an accessory dwelling unit no more than five hundred square feet of interior livable space in size and contained entirely within a single-family residence. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure. For purposes of this definition, attached garages and other enclosed uses within the residence are considered a part of a single-family residence.

F. "Livable space" means a space in a dwelling intended for human habitation, including living, sleeping, eating, cooking, or sanitation.

~~GF.~~ "Multifamily dwelling" means a structure on a single lot with two or more attached dwelling units.

~~FH.~~ "Two-story attached accessory dwelling unit" means an attached accessory dwelling unit that is configured as either:

1. Two stories of living space attached to an existing primary dwelling unit; or
2. Second-story living space above a ground-floor garage or living space in an existing primary dwelling unit.

IG. “Two-story detached accessory dwelling unit” means a detached accessory dwelling unit that is configured as either:

1. Two stories of living space in a single accessory dwelling unit; or
2. Second-story living space above a ground-floor garage or other accessory structure. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

17.74.030 Permitting process.

A. When Consistent with Standards.

1. Ministerial Approval.

a. Except when a design permit is specifically required by this chapter, an accessory dwelling unit that complies with all standards in this chapter shall be approved ministerially with an administrative permit. No discretionary review or public hearing is required.

b. A building permit application may be submitted concurrently with the administrative permit application.

2. Time Period for City Action.

a. The city shall determine whether an application to create or serve an accessory dwelling unit is complete and provide written notice of this determination to the applicant not later than 15 business days after receiving the application.

b. If the city determines an application is incomplete, the city shall provide the applicant with a list of incomplete items and a description of how the application can be made complete. The list and description shall be provided with the written notice required by Paragraph (a) above.

c. After receiving a notice that the application was incomplete, an applicant may submit to the city additional application materials to cure and address the items that are deemed to be incomplete by the city.

d. In the review of additional application materials submitted pursuant to Paragraph (c) above, the city shall not require the application to include an item that was not included in the list required by paragraph (b) above.

e. If an applicant submits additional application materials pursuant to Paragraph (c) above, the city shall determine whether the additional materials remedied all incomplete items listed in the determination issued pursuant to Subsection (b) above. The city shall provide written notice of this determination to the applicant not later than 15 business days after receiving the additional materials.

f. If the city does not make a timely determination as required by this subsection, the application shall be deemed to be complete.

g2. If an existing single-family or multifamily dwelling exists on the parcel upon which an accessory dwelling unit is proposed, the city shall either approve or deny an application to create an accessory dwelling unit within sixty days from the date the city receives a completed application. If the applicant requests a delay in writing, the sixty-day time period shall be tolled for the period of the delay.

h4. If the accessory dwelling unit application is submitted with a permit application to create a new single-family or multifamily dwelling on the parcel, the city may delay approving or denying the accessory dwelling unit application until the city approves or denies the permit application for the new single-family

or multifamily dwelling. The accessory dwelling unit shall be considered without discretionary review or hearing.

i. If the city has not approved or denied the completed application within 60 days, the application shall be deemed approved.

3. Comments for Denied Applications.

a3. If the city denies an application for an accessory dwelling unit, the city shall return in writing a full set of comments to the applicant with a list of items that are defective or deficient and a description of how the application can be remedied by the applicant.

b. Written comments required by Paragraph (a) above shall be provided to the applicant not later than 15 business days after the city denies the application.

c. If the city determines an application is incomplete or denies the application, the applicant may appeal the decision to the Planning Commission and may appeal the Planning Commission decision to the City Council. The city shall make a final decision on the appeal not later than 60 business days after receiving the applicant's written appeal.

45. Garage Demolition.

a. A demolition permit for a detached garage that is to be replaced with an accessory dwelling unit shall be reviewed with the application for the accessory dwelling unit and issued at the same time.

b. The applicant shall not be otherwise required to provide written notice or post a placard for the demolition of a detached garage that is to be replaced with an accessory dwelling unit, unless the property is located within an architecturally and historically significant historic district.

B. Two-Story Units.

1. Planning commission approval of a design permit is required for a two-story accessory dwelling unit (attached or detached) with a height greater than the maximum permitted one-story accessory dwelling unit heights in Table 17.74-1.

2. To approve the design permit, the planning commission must make the findings in Section 17.74.110. A two-story accessory dwelling unit must comply with the standards in Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards) unless the planning commission allows a deviation through the design permit process.

C. When Deviating from Standards. An accessory unit that deviates from any standard in Section 17.74.080 (Development standards) or 17.74.090 (Objective design standards) may be allowed with planning commission approval of a design permit. See Section 17.74.100 (Deviation from standards).

D. When Dependent on Separate Construction. When a proposed attached or detached accessory dwelling unit is dependent on the construction of a new building or new portion of a building which is not a part of the accessory dwelling unit ("separate construction") and is not proposed as part of a permit application to create a new single-family dwelling on the parcel, the city shall either:

1. Accept and begin processing the accessory dwelling unit application only after acting on an application for the proposed separate construction; or

2. Upon written request from the applicant, review and act on the accessory dwelling unit together with the separate construction as part of a single application. In this case, the accessory dwelling unit is subject to the same review procedures as the separate construction.

E. Within Coastal Zone.

1. A proposed accessory dwelling unit that is located in the coastal zone may require a coastal development permit (CDP) as specified by Chapter 17.44 (Coastal Overlay Zone) and the findings for approval of a CDP as specified in Section 17.44.130 (Findings for approval).

2. The City may issue a CDP waiver pursuant to Section 17.44.090 (De minimis waiver of a CDP) for a proposed accessory dwelling unit in the coastal zone. The City may issue a CDP waiver for an accessory dwelling unit both within and outside of locations where City decisions are appealable to the Coastal Commission. To be eligible for a CDP waiver, the proposed accessory dwelling unit must comply with all of the following:

a. The accessory dwelling unit complies with all standards in this chapter and may be approved with no public hearing required. b. The accessory dwelling is not located:

i. In an area subject to coastal hazards as defined by Section 17.44.040(F);

ii. Within 200 feet of a cliff edge; or

iii. In an environmentally sensitive habitat area (ESHA) as defined by Section 17.44.040(J), including categorical ESHA areas identified in Section 17.64.020 (Applicability).

c. The accessory dwelling unit would not negatively impact coastal resources, public access, or views consistent with the City's certified Local Coastal Program.

3. A CDP waiver for an accessory dwelling unit shall comply with all requirements in Section 17.44.090 that apply to other types of development with the exception that the City may issue a CDP waiver for an accessory dwelling unit both within and outside of locations where City decisions are appealable to the Coastal Commission.

4. Nothing in this chapter shall be construed to supersede or in any way alter or lessen the effect of application of the California Coastal Act of 1976 (Division 20, commencing with Section 30000, of the Public Resources Code), except that:

a. A public hearing for a CDP application for an accessory dwelling unit is not required as provided in Section 17.74.030(A)(1); and

b. The City may issue a CDP waiver for an accessory dwelling unit as provided in Section 17.74.030(E)(2)

F. Historic Resources.

1. A proposed accessory dwelling unit is subject to the requirements in Chapter 17.84 (Historic Preservation) if all of the following apply:

a. The property is in the coastal zone;

b. The accessory dwelling unit requires a design permit; and

c. The property contains a designated historic resource or potential historic resource as defined in Section 17.84.020 (Types of historic resources).

2. Compliance with Chapter 17.84 is not required for accessory dwelling unit applications that do not meet all criteria in Paragraph 1 above.

G. Correction of Violations. The city shall not deny an application for a permit to create an accessory dwelling unit due to the correction of nonconforming zoning conditions, building code violations, or unpermitted structures that

do not present a threat to public health and safety and are not affected by the construction of the accessory dwelling unit.

H. Unpermitted Accessory Dwelling Units. The following provisions apply to a building permit application for a previously unpermitted accessory dwelling unit or junior accessory dwelling unit that was constructed before January 1, 2020.

1. The city shall not deny a building permit due to the accessory dwelling unit or junior accessory dwelling's violation of building standards or its noncompliance with this section unless the building official or their designee deems the unit substandard pursuant to Section 17920.3 of the Health and Safety Code.

2. The city shall provide the applicant a checklist of the conditions specified in Section 17920.3 of the Health and Safety Code that would deem the unit substandard.

3. Prior to submission of a building permit application, the city shall inform the homeowner that they may obtain a confidential third-party code inspection from a licensed contractor to determine the unit's existing condition or potential scope of building improvements before submitting a permit application.

4. A homeowner applying for a building permit is not required to pay impact fees or connection or capacity charges except when utility infrastructure is required to comply with Section 17920.3 of the Health and Safety Code.

5. Upon receiving a building permit application, the building inspector may inspect the unit for compliance with health and safety standards and provide recommendations to comply with the standards necessary to obtain a building permit. If the building inspector finds noncompliance with health and safety standards, the city shall not penalize the applicant and shall approve necessary permits to correct noncompliance with health and safety standards.

~~1. Except as provided in subsection (H)(2) of this section, the city shall not deny a permit for an unpermitted accessory dwelling unit or junior accessory dwelling unit that was constructed before January 1, 2020, due to either of the following:~~

~~a. The accessory dwelling unit or junior accessory dwelling unit is in violation of building standards pursuant to Article 1 (commencing with Section 17960) of Chapter 5 of Part 1.5 of Division 13 of the Health and Safety Code.~~

~~b. The accessory dwelling unit or junior accessory dwelling unit does not comply with Government Code Sections 66314 through 66332 or this chapter.~~

~~2. The city may deny a permit for an unpermitted accessory dwelling unit or junior accessory dwelling unit that was constructed before January 1, 2020, if the city makes a finding that correcting the violation is necessary to comply with the standards specified in Section 17920.3 of the Health and Safety Code.~~

~~3. This subsection shall not apply to a building that is deemed substandard pursuant to Section 17920.3 of the Health and Safety Code. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)~~

17.74.040 General requirements.

The following requirements apply to all accessory dwelling units:

A. Where Allowed. An accessory dwelling unit is permitted:

1. In any zoning district where single-family or multifamily dwellings are a permitted use; and
2. On any parcel with an existing or proposed single-family or multifamily dwelling.

B. Maximum Number per Parcel. Not more than one accessory dwelling unit is allowed per parcel except as allowed by Sections 17.74.050 (Units subject to limited standards).

C. Residential Mixed Use. If an existing or proposed dwelling unit is on a parcel with a nonresidential use, the dwelling unit is considered a single-family dwelling for the purpose of determining the applicable requirements in this chapter. If two or more existing or proposed attached dwelling units are on a parcel with a nonresidential use, the dwelling units are considered a multifamily dwelling.

D. Utility Connections. Utility connection requirements shall be subject to state law and the serving utility district. Establishing an accessory dwelling unit in conformance with this chapter does not require placing existing overhead utility lines underground.

E. Fire Sprinklers. The city shall not require accessory dwelling units to provide fire sprinklers if sprinklers are not required for the primary residence. Establishing an accessory dwelling unit does not require installing fire sprinklers in the existing primary dwelling.

F. Vacation Rentals Prohibited. Accessory dwelling units may not be used for vacation rentals as defined in Chapter 17.160 (Glossary), and notwithstanding any other provision to the contrary, rental of an accessory dwelling unit shall be for a term longer than 30 days.

G. Separate Sale from Primary Dwelling. An accessory dwelling unit shall not be sold or conveyed separately from the primary dwelling except as provided in Government Code Section 66341.

H. Guaranteed Allowance.

1. Maximum building coverage, floor area ratio, front setbacks, private open space standards in Section 17.74.080 (Development standards) and privacy impact standards in 17.74.090.B (Privacy Impacts) shall not prohibit an accessory dwelling unit with up to eight hundred square feet of ~~floor area~~ interior livable space, and four-foot side and rear yard setbacks, provided the accessory dwelling unit complies with all other applicable standards. The guaranteed allowance of eight hundred square feet of floor area is in addition to the maximum floor area of a property.

2. An accessory dwelling unit may deviate from a building coverage, floor area ratio, front setbacks, or private open space standard no more than the minimum necessary to allow for eight hundred square feet of floor area.

I. Converting and Replacing Existing Structures.

1. An internal accessory dwelling unit may be constructed regardless of whether it conforms to the current zoning requirement for building separation or setbacks.

2. If an existing structure is demolished and replaced with an accessory dwelling unit, an accessory dwelling unit may be constructed in the same location and to the same dimensions as the demolished structure.

3. If any portion of an existing structure crosses a property line (excluding attached dwelling units bisected by a property line along the common wall), the structure may not be converted to or replaced with an accessory dwelling unit. For an existing structure within four feet of a property line, the applicant must submit a survey demonstrating that the structure does not cross the property line.

J. Manufactured Homes and Mobile Units.

1. A manufactured home, as defined in California Health and Safety Code Section 18007, is allowed as an accessory dwelling unit. Pursuant to California Health and Safety Code Section 18007, as may be amended from time to time, a manufactured home must:

- a. Be built on a permanent chassis;
- b. Be designed for use as a single-family dwelling with or without a foundation when connected to the required utilities; and
- c. Include the plumbing, heating, air conditioning, and electrical systems contained within the home.

2. Vehicles and trailers, with or without wheels, which do not meet the definition of a manufactured home, are prohibited as accessory dwelling units.

3. A prefabricated or modular home is allowed as an accessory dwelling unit.

K. Junior Accessory Dwelling Units.

1. General. Junior accessory dwelling units shall ~~comply with all~~ be subject to the same standards and permitting requirements/procedures as accessory dwelling units described in this chapter unless otherwise indicated.

2. Occupancy.

a. If the JADU has shared sanitation facilities with the existing structure, ~~the~~ The property owner must occupy either the primary dwelling unit or the junior accessory dwelling unit on the property

b. Owner-occupancy is not required if the JADU has separate sanitation facilities or unless if the property is owned by a governmental agency, land trust, or housing organization, ~~in which case owner occupancy is not required.~~

3. Sanitation Facilities.

a. A junior accessory dwelling unit may include sanitation facilities, or may share sanitation facilities with the primary dwelling.

b. If a junior accessory dwelling unit does not include a separate bathroom, the junior accessory dwelling unit shall include a separate entrance from the main entrance to the structure, with an interior entry to the main living area.

4. Kitchen. A junior accessory dwelling unit must include, at a minimum:

a. A cooking facility with appliances; and

b. At least three linear feet of food preparation counter space and three linear feet of cabinet space.

L. Pursuant to the authority provided by Section 65852.21(f) of the Government Code, no accessory dwelling unit or junior accessory dwelling unit shall be permitted on any lot in a single-family zoning district if: (1) an urban lot split has been approved pursuant to Chapter 16.78 of this code; and (2) an SB 9 residential development with two units on each lot has been approved for construction pursuant to Chapter 17.75 of this code. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1052 § 4, 2022; Ord. 1043 § 2 (Att. 2), 2020)

17.74.050 Units subject to limited standards.

The city shall ministerially approve an application for a building permit within a residential or mixed use zoning district to create any of the following types of accessory dwelling units. For each type of accessory dwelling unit, the city shall require compliance only with the development standards in this subsection. Standards in Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards) do not apply to these types of accessory dwelling units. Accessory dwelling units subject to limited standards may be combined on a single parcel as allowed by the site and lot conditions.

A. Internal Accessory Dwelling Units. One internal accessory dwelling unit and one junior accessory dwelling unit per parcel with a proposed or existing single-family dwelling if all of the following apply:

1. The internal accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single-family dwelling or existing space of a single-family dwelling or accessory structure and may include an expansion of not more than one hundred fifty square feet beyond the same physical dimensions as the existing

accessory structure. An expansion beyond the physical dimensions of the second story of an existing accessory structure shall be limited to accommodating ingress and egress.

2. The unit has exterior access from the proposed or existing single-family dwelling.
3. The side and rear setbacks are sufficient for fire and safety.
4. The junior accessory dwelling unit complies with Government Code Sections 66333 through 66339.

B. Detached Accessory Dwelling Units Eight Hundred Square Feet or Less. One detached accessory dwelling unit for a parcel with a proposed or existing single-family dwelling. ~~The detached accessory dwelling unit may be combined with a junior accessory dwelling unit described in subsection A of this section (Internal Accessory Dwelling Units).~~ The accessory dwelling unit must comply with the following:

1. Minimum rear and side setbacks: four feet.
2. Maximum floor area: eight hundred square feet of livable space.
3. Maximum height: sixteen feet or as allowed by Government Code Section 66321(b)(4).

C. Nonlivable Multifamily Space. One or more internal accessory dwelling units within the portions of existing multifamily dwelling structures that are not used as livable space, including, but not limited to, storage rooms, boiler rooms, passageways, attics, basements, or garages, subject to the following:

1. At least one accessory dwelling unit is allowed within an existing multifamily dwelling up to a maximum of twenty-five percent of the existing multifamily dwelling units; and
2. Each unit shall comply with state building standards for dwellings.

D. Detached Accessory Dwelling Units on Multifamily Parcels.

1. Up to two detached accessory dwelling units are allowed on a lot with a proposed multifamily dwelling. On a lot with an existing multifamily dwelling, up to eight detached accessory dwelling units are allowed, not to exceed the number of existing units on the lot. The accessory dwelling units must comply with the following:

- a. Maximum height: sixteen feet or as allowed by Government Code Section 66321(b)(4).
- b. Minimum rear and side setbacks: four feet.

2. If the existing multifamily dwelling has a rear or side setback of less than four feet, the city shall not require any modification of the existing multifamily dwelling as a condition of approving the application to construct an accessory dwelling unit that satisfies the requirements of this subsection. (Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

17.74.060 Units subject to full review standards.

The city shall ministerially approve an application for a building permit to create the following types of accessory dwelling units:

A. Attached Accessory Dwelling Units. An attached accessory dwelling unit in compliance with standards in Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards) with a height eligible for ministerial approval as specified in Table 17.74-1.

B. Detached Accessory Dwelling Units Between Eight Hundred and One Thousand Two Hundred Square Feet. A detached accessory dwelling unit with a floor area between eight hundred and one thousand two hundred square feet in compliance with standards in Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards) with a height eligible for ministerial approval as specified in Table 17.74-1. (Ord. 1043 § 2 (Att. 2), 2020)

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17.74.070 Units requiring a design permit.

The following types of accessory dwelling units require planning commission approval of a design permit:

A. Accessory Dwelling Units – Additional Height Allowance. A detached accessory dwelling unit in compliance with standards in Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards) with a height that requires design review as specified in Table 17.74-1.

B. Accessory Dwelling Units Deviating from Standards. Any accessory dwelling unit that deviates from one or more standards in Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards), except for accessory dwelling units approved pursuant to Section 17.74.050 (Units subject to limited standards). (Ord. 1043 § 2 (Att. 2), 2020)

17.74.080 Development standards.

The standards in this section apply to all accessory dwelling units not approved pursuant to Section 17.74.050 (Units subject to limited standards).

A. General. Table 17.74-1 shows development standards that apply to accessory dwelling units.

Table 17.74-1: Development Standards

ADU Type/Location	Standard
Unit Size, Maximum [1]	
Attached ADU, one bedroom or less	50 percent of the existing primary dwelling or 850 sq. ft., whichever is greater
Attached ADU, more than one bedroom	50 percent of the existing primary dwelling or 1,000 sq. ft., whichever is greater
Detached ADU	1,200 sq. ft.
Internal ADU	No maximum
Junior ADU	500 sq. ft.
Floor Area Ratio, Maximum [24]	As required by zoning district [32]
Setbacks, Minimum [43,54]	
Front	Same as primary dwelling [65]
Interior Side, 1st and 2nd Story	4 ft.
Exterior Side, 1st and 2nd Story	4 ft.
Rear, 1st and 2nd Story	4 ft.
Building Coverage, Maximum	
R-M zoning district	40% [32]
All other zoning districts	No maximum
Height, Maximum [43]	
Attached ADU	25 ft. or maximum permitted in zoning district, whichever is less
Detached ADU – Ministerial Approval	16 ft. [98] [109]
Detached ADU – With Design Permit	22 ft.

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ADU Type/Location	Standard
Private Open Space, Minimum [87]	48 sq. ft. [32]

Notes:

[1] Calculated as interior livable space.

[24] Calculated as the total floor area ratio on the site, including both the primary dwelling and accessory dwelling unit. An applicant may request simultaneous approval of a new internal accessory dwelling unit and an addition to the primary residence as part of a single application.

[32] Standard may not prohibit an accessory dwelling unit with at least eight hundred square feet of floor area. See Section 17.74.040(H) (Guaranteed Allowance).

[43] Setback and height standards apply only to attached and detached accessory dwelling units. Standards do not apply to internal or junior accessory dwelling units.

[54] See also Section 17.74.040(I) (Converting and Replacing Existing Structures) for setback exceptions that apply to an accessory dwelling unit created by converting or replacing an existing structure.

[65] See also subsection B of this section (Front Setbacks) and Section 17.74.040.H.

[76] A two-story detached accessory dwelling unit greater than sixteen feet in height requires a design permit.

[87] Private open space may include screened terraces, decks, balconies, and other similar areas.

[98] A maximum height of 18 feet is allowed for a detached accessory dwelling unit on a lot with an existing or proposed single family dwelling unit that is within one-half of one mile walking distance of a major transit stop or a high-quality transit corridor, as those terms are defined in Section 21155 of the Public Resources Code. An additional 2 feet in height is allowed to accommodate a roof pitch on the accessory dwelling unit that is aligned with the roof pitch of the primary dwelling unit.

[109] A maximum height of 18 feet is allowed for a detached accessory dwelling unit on a lot with an existing or proposed multifamily, multistory dwelling.

B. Front Setbacks.

1. Any increased front setback requirement that applies to a garage associated with a primary dwelling unit also applies to a garage that serves an accessory dwelling unit, except that increased front setback requirements do not apply to an accessory dwelling unit created by converting or replacing an existing structure.
2. In the R-1 zoning district, front setback exceptions in Riverview Terrace and on Wharf Road as allowed in Section 17.16.030(B) apply to accessory dwelling units.
3. In the mixed use zoning districts, minimum front setbacks in Chapter 17.20 (Mixed Use Zoning Districts) apply to accessory dwelling units. Maximum setbacks or build-to requirements do not apply.

C. Parking.

1. All Areas. The following parking provisions apply to accessory dwelling units in all areas in Capitola:
 - a. Required Parking in Addition to Primary Residence. Parking spaces required for an accessory dwelling unit are in addition to parking required for the primary residence.
 - b. Tandem Spaces. Required off-street parking may be provided as tandem parking on an existing driveway.
 - c. Within Setback Areas.
 - i. Required off-street parking may be located within minimum required setback areas from front, side, and rear property lines.
 - ii. A parking space in a required front setback area shall be a “ribbon” or “Hollywood” design with two parallel strips of pavement. The paving strips shall be no wider than two and one-half feet each and shall utilize permeable paving such as porous concrete/asphalt, open-jointed pavers, and turf grids. Unpaved areas between the strips shall be landscaped with turf or low-growing ground cover.
 - d. Alley-Accessed Parking. Parking accessed from an alley shall maintain a twenty-four-foot back-out area, which may include the alley.

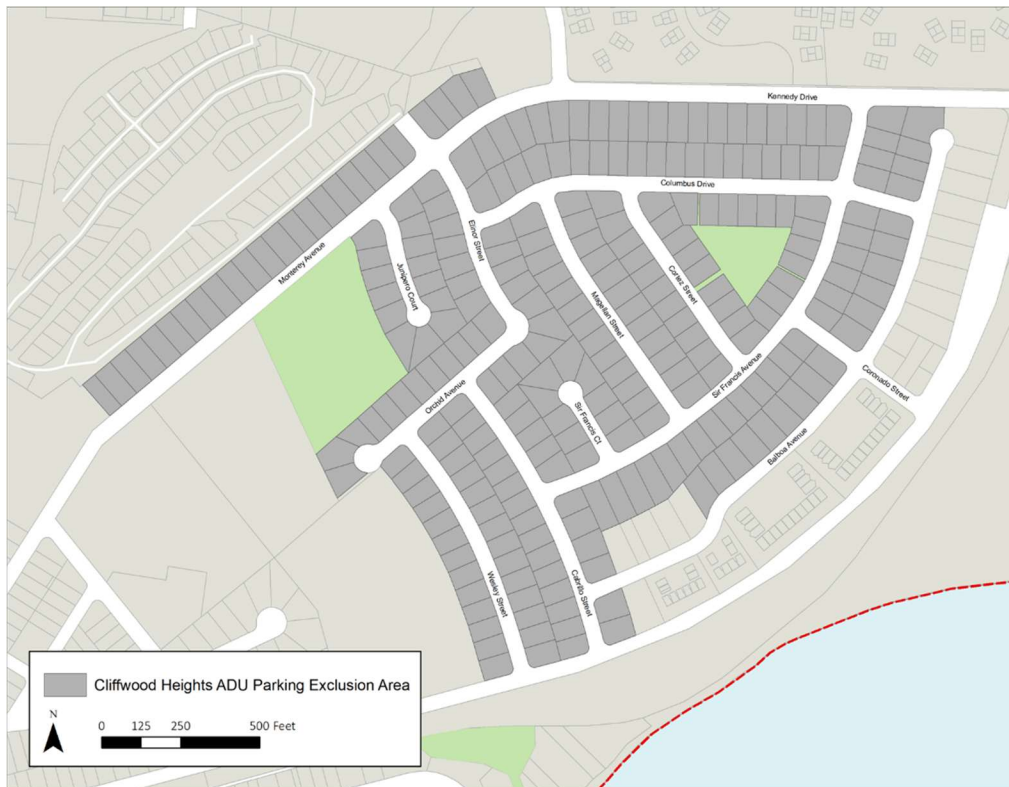
2. Outside of Coastal Zone or in Cliffwood Heights. The following parking provisions apply only to accessory dwelling units outside of the coastal zone and in the Cliffwood Heights neighborhood as shown in Figure 17.74-1.

- a. No additional parking is required for an internal or junior accessory dwelling unit. The floor area of an internal or junior accessory dwelling unit shall not be included in the parking calculation for the primary residence.
- b. One off-street parking space is required for an attached or detached accessory dwelling unit, except as provided in subsection (C)(2)(c) of this section.
- c. No off-street parking is required for an accessory dwelling unit in the following cases:
 - i. The accessory dwelling unit is located within one-half mile walking distance of public transit, as defined in Government Code Section 66313(m).
 - ii. The accessory dwelling unit is located within a National Register Historic District or other historic district officially designated by the city council.
 - iii. The accessory dwelling unit is part of the proposed or existing primary residence or an accessory structure.
 - iv. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
 - v. When there is a car share vehicle pick-up/drop-off location within one block of the accessory dwelling unit.
 - vi. When a permit application for an accessory dwelling unit is submitted with a permit application to create a new single-family dwelling or a new multifamily dwelling on the same lot, provided that the accessory dwelling unit or the parcel satisfies any other criteria listed above.
- d. When a garage, carport, covered parking structure, or uncovered parking space is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, replacement parking stalls are not required for the demolished or converted parking structure.

3. Within Coastal Zone and Outside Cliffwood Heights. The following parking provisions apply only to accessory dwelling units in the coastal zone and outside of the Cliffwood Heights neighborhood as shown in Figure 17.74-1 in accordance with the city's adopted local coastal program.

- a. One off-street parking space is required for any type of accessory dwelling unit except as provided in subsection (C)(3)(b) of this section.
- b. Where the primary residence is served by three or more existing off-street parking spaces, including spaces in a tandem configuration, no off-street parking is required for the accessory dwelling unit.
- c. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit or converted to an accessory dwelling unit, replacement parking stalls are required for the demolished or converted parking structure. Replacement parking space(s) may be covered or uncovered. Replacement parking does not satisfy the one off-street parking requirement for the accessory dwelling unit in subsection (C)(3)(a) of this section.

Figure 17.74-1: Cliffwood Heights ADU Parking Exclusion Area



(Ord. 1057 § 2 (Att. 1), 2022; Ord. 1043 § 2 (Att. 2), 2020)

17.74.090 Objective design standards.

The standards in this section apply to all accessory dwelling units not approved pursuant to Section 17.74.050 (Units subject to limited standards).

A. Entrance Orientation – Detached ADU. The primary entrance to a detached accessory dwelling unit shall face the front or interior of the parcel unless the accessory dwelling unit is directly accessible from an alley or a public street.

B. Privacy Impacts. To minimize privacy impacts on adjacent properties, the following requirements apply to walls with windows within eight feet of an interior side or rear property line abutting a residential use:

1. For a single-story wall or the first story of a two-story wall, privacy impacts shall be minimized by either:

- a. A six-foot solid fence on the property line; or
- b. Clerestory or opaque windows for all windows facing the adjacent property.

2. For a second-story wall, all windows facing the adjacent property shall be clerestory or opaque.

C. Second-Story Decks and Balconies. Second-story decks and balconies proposed as part of an accessory dwelling unit that requires a design permit shall be located and designed to minimize privacy impacts on adjacent residential properties, as determined by the planning commission through the design permit approval process.

D. Architectural Details. Table 17.74-2 shows architectural detail standards for accessory dwelling units.

EXHIBIT B

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Table 17.74-2: Architectural Detail Standards

	Non-historic property in the coastal zones and all properties outside the coastal zone [1]		Historic property in the coastal zone [1]	
	Attached ADU	Detached ADU	Attached ADU	Detached ADU
Primary Exterior Materials [2]	Same as primary dwelling [3]	No requirement	Same as primary dwelling; or horizontal wood, fiber cement, or board and batten siding or shingles [3]	Horizontal wood, fiber cement, or board and batten siding, or shingles [4]
Window and Door Materials	No requirement		Wood, composite, pre-finished metal with a nonreflective finish	
Window Proportions	No requirement		Windows must be taller than they are wide or match the proportions of the primary dwelling window [5]	
Window Pane Divisions	No requirement		True or simulated divided lights	
Roof Material	Same as primary dwelling [3]	No requirement	Same as primary dwelling [3]	Same as primary dwelling; or architectural composition shingles, clay tile, slate, or nonreflective standing seam metal [3]
Roof Pitch	No requirement	4:12 or greater [6]	No requirement	4:12 or greater [6]
Exterior Preservation	No requirement	No requirement	See 17.74.090.E.1	No requirement

Notes:

[1] “Historic property” means a designated historic resource or potential historic resource as defined in Section 17.84.020 (Types of historic resources).

[2] Standard does not apply to secondary and accent materials.

[3] “Same as primary dwelling” means the type of material must be the same as the primary dwelling. The size, shape, dimensions, and configuration of individual pieces or elements of the material may differ from the primary dwelling.

[4] If primary dwelling is predominantly stucco, stucco is allowed for the accessory dwelling unit.

[5] Bathroom windows may be horizontally oriented.

[6] If the primary dwelling has a roof pitch shallower than 4:12, the accessory dwelling unit roof pitch may match the primary dwelling.

E. Building Additions to Historic Structures. The following standards apply in the coastal zone to an ADU attached to a designated historic resource or potential historic resource as defined in Section 17.84.020 (Types of historic resources).

1. The attached ADU may not obscure, damage, or destroy the exterior of a historic structure on its historically significant building face(s), including associated roofline(s).
2. Historically significant building face means any character-defining building elevation which abuts a street or public access easement. A structure may have more than one historically significant face.
3. Preservation requirements extend to all associated elements of a character-defining building face including, but not limited to, porches, windows, doors, trim, and cladding.

17.74.100 Deviation from standards.

A. When Allowed. The planning commission may approve an accessory dwelling unit that deviates from one or more standards in Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards).

B. Permit Required. Deviations allowed under this section require planning commission approval of a design permit. A variance is not required. To approve the design permit, the planning commission must make the findings in Section 17.74.110 (Findings). (Ord. 1043 § 2 (Att. 2), 2020)

17.74.110 Findings.

A. When Required. The planning commission must make the findings in this section to approve a design permit for:

1. Detached accessory dwelling units with a height that requires design review as specified in Table 17.74-1.; and
2. Accessory dwelling units that deviate from one or more standards in Sections 17.74.080 (Development standards) and 17.74.090 (Objective design standards), except for accessory dwelling units approved pursuant to Section 17.74.050 (Units subject to limited standards).

B. Findings. To approve the design permit, the planning commission shall find that:

1. The exterior design of the accessory dwelling unit is compatible with the primary dwelling on the parcel through architectural use of building forms, height, construction materials, colors, landscaping, and other methods that conform to acceptable construction practices.
2. The exterior design is in harmony with, and maintains the scale of, the neighborhood.
3. The accessory dwelling unit will not create excessive noise, traffic, or parking congestion.
4. The accessory dwelling unit has or will have access to adequate water and sewer service as determined by the applicable service provider.
5. Adequate open space and landscaping have been provided that are usable for both the accessory dwelling unit and the primary residence. Open space and landscaping provide for privacy and screening of adjacent properties.
6. The location and design of the accessory dwelling unit maintain a compatible relationship to adjacent properties and do not significantly impact the privacy, light, air, solar access, or parking of adjacent properties.
7. The accessory dwelling unit generally limits the major access stairs, decks, entry doors, and major windows to the walls facing the primary residence, or to the alley if applicable. Windows that impact the privacy of the neighboring side or rear yard have been minimized. The design of the accessory dwelling unit complements the design of the primary residence and does not visually dominate it or the surrounding properties.
8. The site plan is consistent with physical development policies of the general plan, any area plan or specific plan, or other city policy for physical development. If located in the coastal zone, the site plan is consistent with policies of the local coastal plan. If located in the coastal zone and subject to a coastal development permit, the proposed development will not have adverse impacts on coastal resources.
9. The project would not impair public views along the ocean and of scenic coastal areas. Where appropriate and feasible, the site plan restores and enhances the visual quality of visually degraded areas.
10. The project deviation (if applicable) is necessary due to special circumstances applicable to subject property, including size, shape, topography, location, existing structures, or surroundings, and the strict application of this chapter would deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zoning classification. (Ord. 1043 § 2 (Att. 2), 2020)

17.74.120 Deed restrictions.

A. Prior to issuing a certificate of occupancy for a junior accessory dwelling unit, the property owner shall file with the county recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the current owner. The deed restriction shall state that:

1. The junior accessory dwelling unit may not be used for vacation rentals as defined in Chapter 17.160 (Glossary).
2. The junior accessory dwelling unit may not be sold separately from the primary dwelling.
3. Restrictions on size, owner occupancy requirement, and attributes in conformance with this chapter.

EXHIBIT B

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B. The above declarations are binding upon any successor in ownership of the property. Lack of compliance shall be cause for code enforcement and/or revoking the city's approval of the junior accessory dwelling unit.

C. The deed restriction shall lapse upon removal of the junior accessory dwelling unit. (Ord. 1043 § 2 (Att. 2), 2020)

17.74.130 Incentives.

A. Fee Waivers for Affordable Units.

1. The city may waive development fees for accessory dwelling units that will be rented at levels affordable to low- or very low-income households.

2. Applicants of affordable accessory dwelling units shall record a deed restriction limiting the rent to low- or very low-income levels prior to issuance of a building permit.

3. Landlords of accessory dwelling units shall be relieved of any affordability condition upon payment of fees in the amount previously waived as a result of affordability requirements, subject to an annual Consumer Price Index increase commencing with the date of application for building permit.

B. Historic Properties. The planning commission may allow exceptions to design and development standards for accessory dwelling units proposed on a property that contains a historic resource as defined in Chapter 17.84 (Historic Preservation). To allow such an exception, the planning commission shall approve a design permit and find that the exception is necessary to preserve the architectural character of the primary residence. (Ord. 1043 § 2 (Att. 2), 2020)

EXHIBIT C

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Chapter 9.08

~~TATTOO ESTABLISHMENTS~~

Sections:

~~9.08.010 Prohibited.~~

~~9.08.020 Definitions.~~

~~9.08.030 Exception.~~

~~9.08.040 Penalty for violation.~~

~~9.08.010 Prohibited.~~

~~It is unlawful to maintain or conduct a tattoo establishment or to maintain and conduct a tattooing business in the city. (Ord. 174 § 1, 1962)~~

~~9.08.020 Definitions.~~

~~A. "Tattoo establishment" is defined as an establishment or business located on any premises in the city in which the business of tattooing is undertaken by any person, firm or corporation.~~

~~B. As used in this chapter, to "tattoo" means to insert pigment under the surface of the skin of a human being, by pricking with a needle or otherwise, so as to produce an indelible mark or figure visible through the skin. (Ord. 174 § 2, 1962)~~

~~9.08.030 Exception.~~

~~This chapter is not intended to apply to any act of a licensed practitioner of the healing arts performed in the court of his or her practice. (Ord. 174 § 3, 1962)~~

~~9.08.040 Penalty for violation.~~

~~The violation of any provision of this chapter shall constitute a misdemeanor punishable by a fine of five hundred dollars or six months in jail, or both; and in addition, all such violations shall constitute and be deemed a public nuisance subject to abatement pursuant to the provisions of the California Code of Civil Procedure. (Ord. 174 § 4, 1962)~~

17.20.020 Land use regulations.

A. Permitted Land Uses. Table 17.20-1 identifies land uses permitted in the mixed use zoning districts.

Table 17.20-1: Permitted Land Uses in the Mixed Use Zoning Districts

Key		Zoning District		
P	Permitted Use	MU-V	MU-N	Additional Regulations
A	Administrative Permit required			
M	Minor Use Permit required			
C	Conditional Use Permit required			
–	Use not allowed			

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Residential Uses [7]			Section 17.20.020(B), (C) and (E)
Duplex Homes	-/P [1]	P	
Elderly and Long-Term Care	C [2] [6]	C	
Group Housing	C [2] [6]	C	
Multifamily Dwellings	-/P [1] [6]	C	
Residential Care Facilities, Small and Large	See Section 17.20.020(F)		
Residential Care Facilities, Large	P [2] [6]	C	Section 17.96.080
Residential Mixed Use	See Sections 17.20.020(D) and (E) [6]	C	
Accessory Dwelling Units	A	A	Chapter 17.74
Single-Family Dwellings	-/P [1]	P	
Public and Quasi-Public Uses			
Community Assembly	C	C	
Cultural Institutions	C	C	
Day Care Centers	M	M	
Government Offices	P/C [4]	M [5]	
Home Day Care	P	P	
Medical Offices and Clinics	-	M [5]	
Parks and Recreational Facilities	C	C	
Public Pathways and Coastal Accessways	C	C	
Public Safety Facilities	C	C	
Schools, Public or Private	-	C	
Commercial Uses			Section 17.20.020(E)
Alcoholic Beverage Sales	C	C	
Banks and Financial Institutions	C	P/C [3] [5]	
<u>Body Art Studios</u>	<u>C</u>	<u>-</u>	<u>Section 17.96.080</u>
Commercial Entertainment and Recreation	C	C	
Eating and Drinking Places			
Bars and Lounges	C	C	
Restaurants and Cafes	C	C	

EXHIBIT C

Item 9 D.

Take-Out Food and Beverage	M	M	
Gas and Service Stations	–	–	
Lodging			
Bed and Breakfast	C	C	
Hotels and Motels	C	C	
Personal Services	P	P/C [3] [5]	
Professional Offices	P/C [4]	M [5]	
Retail	P	P/C [3] [5]	
Vacation Rental	See Section 17.40.030		
Transportation, Communication, and Utility Uses			
Utilities, Major	C	C	
Utilities, Minor	P	P	
Wireless Communications Facilities	See Chapter 17.104		
Other Uses			
Accessory Uses and Structures	See Chapter 17.52		Chapter 17.52
Home Occupations	P	P	Section 17.96.040
Permanent Outdoor Display (Accessory Use)	–	C	Section 17.96.100
Temporary Uses and Structures	See Section 17.96.180		
Urban Agriculture			
Home Gardens	P	P	
Community Gardens	M	M	

17.24.020 Land use regulations (effective outside coastal zone).

A. Permitted Land Uses. Table 17.24-1 identifies land uses permitted in the commercial and industrial zoning districts. The city council may approve a use not listed in Table 17.24-1 after receiving a recommendation from the planning commission and finding the use to be consistent with the general plan and the purpose of the zoning district.

Table 17.24-1: Permitted Land Uses in Commercial and Industrial Zoning Districts

EXHIBIT C

Item 9 D.

Key		Zoning District			
P	Permitted Use	C-C	C-R	I	Additional Requirements
A	Administrative Permit required				
M	Minor Use Permit required				
C	Conditional Use Permit required				
–	Use not allowed				
Residential Uses [12]					
Single-Family Dwellings		–	–	–	
Multifamily Dwellings		C [9]	C [9]	–	
Residential Mixed Use		C	C [7]	–	Section 17.24.040
Large Residential Care Facilities		C [9]	C [9]	–	
Accessory Dwelling Unit		A	A		Chapter 17.74
Public and Quasi-Public Uses					
Colleges and Trade Schools		C	C	C	
Community Assembly		C	C	–	
Cultural Institutions		C	C	–	
Day Care Centers		M	M	–	
Emergency Shelters		P	–	P	Section 17.96.030
Government Offices		See 17.24.020(C)		C	
Home Day Care		P	P	P	
Medical Offices and Clinics		See 17.24.020(C)		–	
Public Paths and Coastal Accessways		C	C	C	
Public Safety Facilities		C	C	C	
Commercial Uses					
Alcoholic Beverage Sales		C	C	C	
Banks		P [2]	P [2]	–	
Body Art Studios		C	C	–	Section 17.96.080
Car Wash		C	C		
Financial Institutions		See 17.24.020(C)		–	

EXHIBIT C

Item 9 D.

Business Services	P [2]	P [2]	P	
Commercial Entertainment and Recreation	M	M	–	
Drive-Through Facilities	–	C [4]	–	
Eating and Drinking Establishments				
Bars and Lounges	C	C	C	
Mobile Food Vendors	–	A [6]/C	A [6]/C	
Restaurants and Cafes	M [2]	M [2]	C	
Take-Out Food and Beverage	M [2]	M [2]	–	
Food Preparation	M [2]	–	P	
Gas and Service Stations	C	C	–	
Liquor Stores	C	C	–	
Lodging				
Bed and Breakfast	C	–	–	
Hotel	C	C	–	
Maintenance and Repair Services	M	C	P	
Personal Services	P [1]	P [1]	–	
Professional Offices	See 17.24.020(C)		P	
Salvage and Wrecking	–	–	P	
Self-Storage	C	–	C	Section 17.96.140
Retail	P [11]	P [11]	–	
Retail Cannabis Establishment	C [10]	C [10]		Section 17.24.020(D)
Vehicle Repair	C	C	P	
Vehicle Sales and Rental	C [5]	C [5]	–	
Vehicle Sales Display Room [8]	P	P	–	
Wholesaling	–	M [3]	P	
Heavy Commercial and Industrial Uses				
Construction and Material Yards	–	–	P	
Custom Manufacturing	M	M	P	
Light Manufacturing	–	–	P	

EXHIBIT C

Item 9 D.

Warehousing and Distribution	–	–	P	
Transportation, Communication, and Utility Uses				
Utilities, Major	–	C	C	
Utilities, Minor	P	P	P	
Recycling Collection Facilities	C	C	C	Section 17.96.130
Wireless Communications Facilities	See Chapter 17.104			
Other Uses				
Accessory Uses	See Chapter 17.52			
Home Occupations	P	P	–	Section 17.96.040
Permanent Outdoor Display	C	C	C	Section 17.96.100
Temporary Uses	See Section 17.96.180			
Urban Agriculture				
Home Garden	P	P	–	
Community Garden	M	M	–	

17.96.080 Body art studios.

- A. **Where Permitted.** Body art studios are permitted in the C-C, C-R, and MU-V zoning districts, subject to approval of a conditional use permit and compliance with the standards in this section.
- B. **Maximum Number.**
 1. The maximum number of body art studios permitted in each zoning district at any given time is:
 - a. Two total in the C-C and C-R zoning districts; and
 - b. One in the MU-V zoning district.
 2. A body art studio counts toward the maximum number allowed when the City receives a conditional use permit application with the materials required by subsection (C)(2) of this section. The City will not accept additional body art studio applications for processing if the application would exceed the maximum number allowed by this subsection.
 3. Applications that are withdrawn, denied, or expire prior to permit approval shall no longer count toward the maximum number allowed.
- C. **City Permit.**
 1. A body art studio requires planning commission approval of a conditional use permit.
 2. Applications shall include all information and materials required for a conditional use permit and the City's administrative policy for body art studios:
 3. During the first 30 days following the effective date of the ordinance establishing this section, the City will accept body art studio applications during an initial application period.
 4. If the number of complete applications received during the initial application period exceeds the maximum number allowed in a zoning district pursuant to subsection B of this section, the City will conduct a random lottery, consistent with the City's administrative policy for body art studios, to determine which applications may proceed to conditional use permit review.

5. Following the initial application period, the City will accept applications on a first-submitted basis, subject to the maximum number allowed by subsection B of this section.
- D. **County Permits and Registrations.** A body art studio operator shall obtain and maintain all permits and registrations required by the California Safe Body Art Act and Santa Cruz County Environmental Health Division.
- E. **Commencement of Operations.**
 1. Notwithstanding Section 17.156.080, a body art studio conditional use permit shall expire and become void if the body art studio has not obtained a City business license and commenced operations within twelve months of permit approval.
 2. Upon expiration, revocation, or abandonment of a body art studio conditional use permit, the body art studio shall no longer count toward the maximum number allowed by subsection B.
- F. **Standards.**
 1. **Hours of Operation.** No body art procedures shall occur between 10:00 p.m. and 6:00 a.m.
 2. **Minimum Separation.**
 - a. Body art studios shall not be located within a path of travel of 1,000 feet from a public or private K-12 school or a place of religious assembly, measured following the shortest path of travel along a public right-of-way from the property line of the parcel containing the body art studio parcel to the parcel containing the school or religious assembly use.
 - b. Body art studios shall not be located within a path of travel of 500 feet of another body art studio, measured from the body art studio tenant space on a multi-tenant property or the structure for a single-tenant property.
 3. **Visibility of Procedures.**
 - a. Body art procedures shall not be conducted in a manner visible from a public street, sidewalk, park, or other public area.
 - b. Screening shall be accomplished through interior partitions or other methods that maintain compliance with applicable ground-floor building transparency requirements.
 4. **Indoor Procedures.** All body art procedures shall occur within an enclosed building.
 5. **Alcohol.** Alcohol consumption shall be prohibited within the facility.
 6. **Age Restrictions.** Persons under 18 years of age are prohibited on the premises unless accompanied by a parent or legal guardian.
 7. **Temporary/Mobile Facilities.** Temporary or mobile body art facilities and body art events are prohibited.

17.160 Glossary

Body art studio. A facility, as defined by the California Safe Body Art Act (California Health and Safety Code Section 119300 et seq.), where one or more persons engage in the business of performing body art, including tattooing, body piercing, branding, or other body art practices regulated by the Act.

Temporary or Mobile Body Art Facility. A body art facility that is operated on a temporary basis, including at fairs, festivals, conventions, special events, or similar venues, or that is operated from a vehicle, trailer, portable structure, or other movable location rather than a permanently established body art studio.

Municipal Code Amendments Consistency with LCP Land Use Plan

Incentivized Zone Amendments

The proposed amendments to the incentivized zone (Chapter 17.88) implement Program 1.4 in Capitola's 2023-2031 Housing Element. Capitola committed to completing these amendments to comply with state housing laws.

The proposed incentivized zone amendments add objective standards for available benefits, increase the allowed height for qualifying hotels, and clarify rules for projects that provide community benefits and receive incentives for affordable or senior housing under state density bonus law. The incentivized zone is an existing urban area located along a transportation corridor and seeks to direct new development into areas that do not contain sensitive coastal resources. Table 1 identifies the basis of finding the proposed incentivized zone amendments consistent with applicable LCP policies.

Table 1: Incentivized Zone Amendment Consistency Determination

LCP Policies	Basis for Consistency Finding
Coastal Act Policy 30250: New residential, commercial or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it, or, where such areas are not able to accommodate it, in other areas with adequate public services, and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.	The incentivized zone area is surrounded on all sides by existing development and does not contain known environmental sensitive habitat areas or sensitive coastal resources as defined in Coastal Action Section 30116.
Coastal Act Policy 30253: New development shall: 1) Minimize risks to life and property in areas of high geologic, flood and fire hazard ...	The incentivized zone area is located outside of active fault zones, high and very high liquefaction potential zones, 100 year flood zones, areas with potential hazards from bluff and sand beach erosion, tsunami inundation risk areas and fire hazard areas as identified in the City's Local Hazard Mitigation Plan.
Coastal Act Policy 30240: a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas ...	None of the following categorical ESHA areas, as identified in the certified LCP, are located in the incentivized zone area: Soquel Creek, Lagoon, and Riparian Corridor; Noble Gulch Riparian Corridor; Tannery Gulch Riparian Corridor; and Monarch butterfly habitat – Rispin-Soquel Creek and Escalona Gulch.
Policy VII-1: It shall be the policy of the City of Capitola to adequately plan for natural hazards in new development, reduce risks to life and property, and revise all plans and Zoning Ordinances to be in conformance with all the policies of the Coastal Act relating to hazards and shoreline structures.	See basis for Coastal Act Policy 30253 above.

ADU Amendments

The proposed amendments to Capitola's accessory dwelling unit (ADU) regulations are required to comply with recent changes to state ADU law. These changes revised the process and timeframe for cities to review and act on ADUs and JADUs, modified owner occupancy requirements for JADUs, and clarified ADU provisions which also apply to JADUs. None of the proposed ADU amendments create conflicts with the City's LCP policies.

Body Art Studios (Tattoo Establishments) Amendments

The proposed body art studio amendments allow body art studios in the C-C, C-R, and MU-V zoning districts with a CUP, limit the number of body art studios in each district, and establish standard for minimum separation, visibility of procedures, alcohol consumption, age restrictions, and other issues as appropriate. Currently, personal service uses are allowed in commercial and mixed use zoning districts, and the proposed amendments add body art establishments as a similar allowed use subject to operational standards. This change create conflicts with the City's LCP policies. Furthermore, the Coastal Act calls for accommodating visitor-serving commercial uses in appropriate locations in the coastal zone. Because body art studios are frequently patronized by visitors, allowing them in the coastal zone is consistent with this Coastal Act objective.

RESOLUTION NO.**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
AUTHORIZING SUBMITTAL TO THE CALIFORNIA COASTAL COMMISSION
FOR THE CERTIFICATION OF AN AMENDMENT TO THE LOCAL COASTAL
PROGRAM AMENDING MUNICIPAL CODE TITLE 17 (ZONING) PERTAINING
TO INCENTIVES FOR COMMUNITY BENEFITS, ACCESSORY DWELLING
UNITS, AND BODY ART STUDIOS**

WHEREAS, on August 22, 2024, the City Council adopted amendments to the 2023-2031 Housing Element of the General Plan (“Housing Element”) and Addendum to the General Plan Final Environmental Impact Report;

Whereas, on August 30, 2025, the California Department of Housing and Community Development (“HCD”) certified the Housing Element;

WHEREAS, the Housing Element identifies Zoning Code Chapter 17.88 (Incentives for Community Benefits) as a constraint to housing production and calls for the City to establish objective standards for projects that provide community benefits;

WHEREAS, in 2025, the state enacted AB 1154 and SB 543 which, revise the process and timeframe for cities to review and act on accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs), modify owner occupancy requirements for JADUs, and clarify ADU provisions which also apply to JADUs;

WHEREAS, Municipal Code Chapter 9.08 (Tattoo Establishments), adopted in 1962, states that “It is unlawful to maintain or conduct a tattoo establishment or to maintain and conduct a tattooing business in the city.”;

WHEREAS, on May 7, 2026, staff met with California Coastal Commission staff to review proposed amendments to Chapter 17.88 (Incentives for Community Benefits) related to the Capitola Village Hotel and, based on the information provided Coastal staff provided direction to move the Capitola Village Hotel community benefits into a separate chapter of the code and not make changes to the standards;

WHEREAS, at a duly noticed public hearing on August 20, 2026 the Planning Commission recommended the City Council adopt the Municipal Code Amendments pertaining to incentives for community benefits, accessory dwelling units, and body art studios

WHEREAS, notice of the Amendments’ availability was mailed and public review drafts were made available on August 14, 2026, in compliance with California Coastal Act public participation requirements and applicable state law;

WHEREAS, the Capitola City Council conducted duly noticed public hearings on September 10 2026, at which the City Council introduced and performed a first reading of an ordinance to adopted the proposed Zoning Code Amendments. On September 24, 2026 the City Council adopted the ordinance, with the Zoning Code Amendments; and

WHEREAS, the City Council determined that the Zoning Code Amendments are consistent with the General Plan and that the revisions would be internally consistent with all

other provisions of the Municipal Code.

WHEREAS, the Zoning Code Amendments would become a component of Implementation Plan of the City's Local Coastal Program and is intended to be implemented in a manner that is in full conformance with the California Coastal Act.

WHEREAS, the Local Coastal Program Implementation Plan establishes specific land use and development regulations to implement the Local Coastal Program Land Use Plan, and Title 17 (Zoning) and the Zoning Map are part of Capitola's Local Coastal Program Implementation Plan; and

WHEREAS, the City provided Public Notice, as required under Coastal Act 30514 et seq., for Certification of the LCP Implementation Plan and Corresponding Maps.

NOW, THEREFORE, BE IT HEREBY RESOLVED, by the City Council of the City of Capitola, that this Resolution declares and reflects the City's intent to amend the LCP Implementation Plan as it pertains to Chapter 17 (Zoning), as drafted, if certified by the California Coastal Commission, in full conformity with the City of Capitola LCP and provisions of the California Coastal Act.

BE IT FURTHER RESOLVED, that the City Manager or his designee is directed to submit the said Coastal Commission LCP Amendments to the California Coastal Commission for its review and certification. If the Coastal Commission approves the amendment package, it will take effect automatically upon Coastal Commission approval. If the Coastal Commission modifies the amendment package, only the modifications will require formal action by the City of Capitola.

I HEREBY CERTIFY that the foregoing resolution was passed and adopted by the City Council of the City of Capitola on the 10th day of September, 2026, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Margaux Morgan, Mayor

ATTEST: _____
Julia Gautho, City Clerk



CITY OF CAPITOLA
ADMINISTRATIVE POLICY
BODY ART STUDIO LOTTERY

Item 9 D.

Effective Date: _____
Adopted By: _____

1. Purpose

This policy establishes the process for selecting body art studios when more applications are received than the number of studios allowed by the Capitola Municipal Code. This policy is intended to implement Capitola Municipal Code Section 17.96.080, Body Art Studios, and does not replace or modify the requirements of the Municipal Code.

2. Number of Body Art Studios

A maximum of three body art studios may operate in the City at any given time:

- One in the Mixed Use Village (MU-V) zoning district; and
- Two in the Regional Commercial (C-R) and Community Commercial (C-C) zoning districts combined.

3. Application to Participate in the Lottery

During the initial application period established by Municipal Code Section 17.96.080, an applicant wishing to participate in the lottery must submit:

1. A completed City lottery application on the form approved by the Community Development Director;
2. A \$3,000 deposit; and
3. The applicant's preference for:
 - MU-V, or
 - C-R/C-C.

An applicant may identify only one zoning district preference. If not selected for the preferred location, the applicant will be added to the pool for the third lottery.

The deposit is required to participate in the lottery. If selected, the deposit will be applied toward the future conditional use permit. If not selected, the deposit, will be refunded to the applicant, less \$250 for cost associated with administering the lottery. If a lottery is not held due to lack of applications, the \$250 will not be charged.

4. Lottery Process

If more complete applications are received than the number of available body art studio locations, the City will conduct a random lottery.

The lottery will be conducted in the following order:

First Lottery – MU-V

1. All applicants requesting an MU-V location will be entered into the first lottery.
2. The first selected applicant will receive the opportunity to proceed with a body art studio in the MU-V zoning district.
3. If there are no MU-V applicants, the MU-V location will be open to all applicants in the Fourth lottery.

Second Lottery – C-R/C-C

1. All applicants requesting a C-R/C-C location will be entered into the second lottery.



CITY OF CAPITOLA
ADMINISTRATIVE POLICY
BODY ART STUDIO LOTTERY

Item 9 D.

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2. The first two selected applicants will receive the opportunity to proceed with body art studios in the C-R/C-C zoning districts.

Third Lottery – Remaining C-R/C-C Opportunity

1. All remaining applicant not previously selected will be included in a third lottery for any remaining C-R/C-C opportunity.
2. The second two selected applicants will receive the opportunity to proceed with body art studios in the C-R/C-C zoning districts.

Fourth Lottery – Remaining MU-V Opportunity

1. If there were no applicants having a preference for the MU-V District, the MU-V lottery will open to all remaining applicants not previously selected.

5. Selection Does Not Guarantee a Location

Being selected in the lottery does not approve a particular location or guarantee approval of a conditional use permit.

A selected applicant must identify a proposed location that meets all applicable City requirements, including the zoning requirements for body art studios.

The applicant remains responsible for obtaining all required City and County approvals.

6. One Year Requirement

A selected applicant will have one year from the date of lottery selection to complete the following:

1. Obtain a signed lease or other proof of site control for a location within the zoning district for which the applicant was selected.
2. Conditional Use Permit. A selected applicant must obtain a conditional use permit as required by Capitola Municipal Code Section 17.96.080. Lottery selection does not constitute approval of a conditional use permit. The conditional use permit process will address the proposed location and the applicable requirements of the Municipal Code.

The one-year period is intended to give the selected applicant time to secure a location and obtain a conditional use permit.

7. Construction and Permitting Period

After satisfying the one-year requirements, the selected applicant will have an additional 12 months to complete all required permits, registration, construction, and licensing required to open and operate the body art studio for business.

8. Failure to Meet Deadlines

If a selected applicant:

- Does not provide the required Conditional Use Permit and lease/site control within the initial one-year period; or
- Does not complete all required permits, registration, construction, and licensing required to open and operate the body art studio for business within the additional one-year period;

the applicant's opportunity to operate a body art studio under the lottery selection will expire.



CITY OF CAPITOLA
ADMINISTRATIVE POLICY
BODY ART STUDIO LOTTERY

Item 9 D.

Effective Date: _____
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The available body art studio opportunity will then be made available to another applicant pursuant to the Municipal Code and this administrative policy.

9. Withdrawal

An applicant may withdraw from the lottery or from the process at any time by notifying the City in writing. A withdrawn applicant will no longer be eligible for the body art studio opportunity for a period of one year.

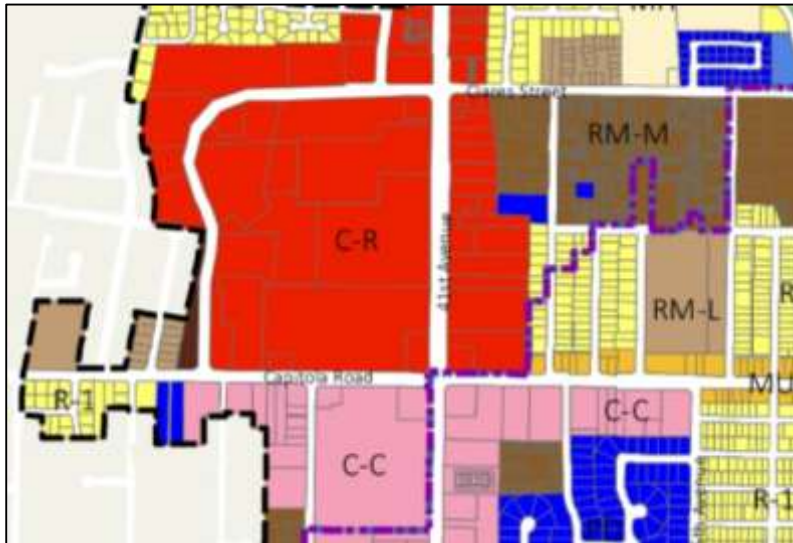
10. City Discretion

The City Manager or designee may establish reasonable administrative procedures necessary to conduct the lottery and implement this policy, provided those procedures are consistent with Capitola Municipal Code Section 17.96.080. If there is a conflict between this policy and the Capitola Municipal Code, the Municipal Code shall control.

11. Policy Expiration

This policy shall expire after the application period for the initial lottery has closed. Once expired, body art studio permits shall be issued on a first come first served basis and this policy will automatically be rescinded.

City Of Capitola Zoning Code Amendments



City Council Hearing
September 10, 2026

Ben Noble Planning

Background

- Updated Housing Element adopted 2024
- Housing Element programs require Zoning Code Amendments
- One remaining amendment required
- Program 1.4 calls for changes to “incentivized zone” which allows increase FAR and height for projects that provide community benefits
- Other clean-up amendments (ADUs, tattoo establishments) needed at this time

Background

- Planning Commission study session June 4, 2026
 - Incentivized Zone, Body Art Studios (Tattoo Establishments), Accessory Dwelling Units
- Reviewed with State HCD
- Planning Commission Meeting August 20, 2026
 - Recommended Adoption

Incentivized Zone

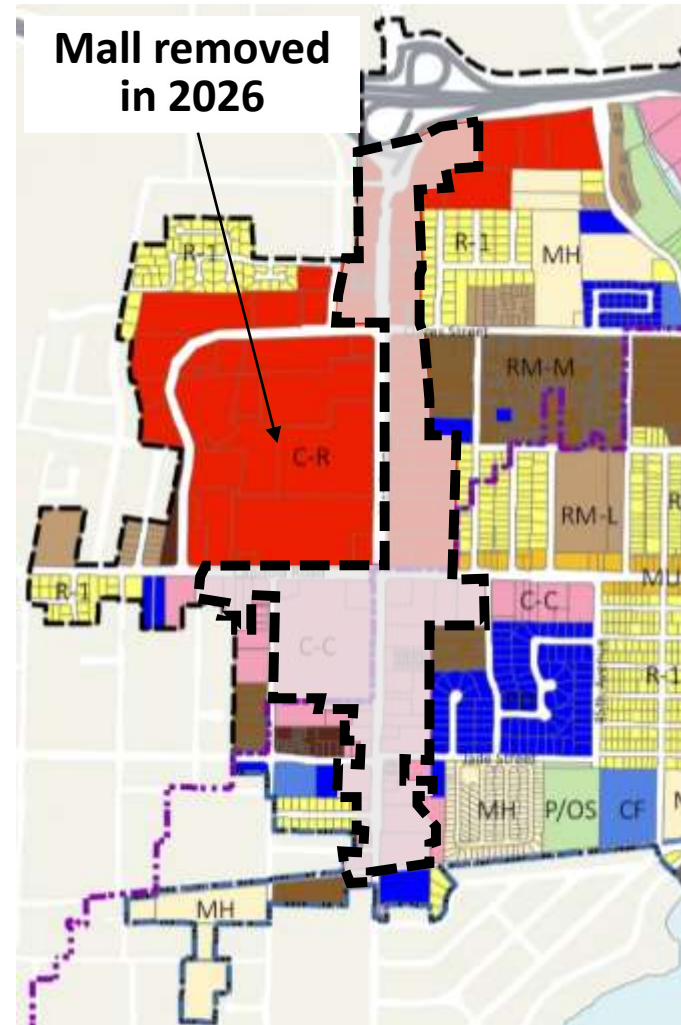
General Plan: Increased height and FAR for projects that provide “substantial community benefit” in specified locations

Zoning Code:

- Chapter 17.88: Incentives for Community Benefits
- Additional details on:
 - Allowable benefits
 - Application submittal and review
 - Findings

Existing Eligible Locations

- 41st Avenue
- Capitola Road between Clares Street and 42nd Avenue
- Former Capitola Theater site



Proposed Amendments

Chapter 17.88

- Properties along 41st and Capitola Road near mall
- Amendments to implement Housing Element

New Chapter 17.90

- Only for Village hotel
- No substantive changes

Community Benefit Categories

1. General Projects:

- Public Open Space
- Transit Center
- Public Parking
- Land For Public Facility
- New Commercial Space

2. Hotel Projects

3. Density Bonus Projects: State density bonus law project with Community Benefit

Removed:

- Child Care
- Bike/Pedestrian Connection

Incentive should be proportional to the benefit

City's ability to secure the promised benefit

2020 Childcare incentives

Available Incentives

Category	Incentive
General Project	2.0 FAR and 50 ft. height
Hotel Project	2.0 FAR and 60 ft. height Reduced parking Meeting space excluded from FAR
Density Bonus Project	One additional density bonus concession or incentive



Application Submittal and Review

Three step process:

- City Council conceptual review for projects dedicating land to City (public open space, transit center, public parking, and land for public facility).
- Planning Commission recommendation
- City Council final action

New Commercial Space

Minimum 10% of the project's total gross floor area, with minimum of 5,000 sf and maximum of 30,000 sf.

Project Gross Floor Area	10% Requirement	Required Commercial
30,000 sq. ft.	3,000 sq. ft.	5,000 sq. ft. minimum
50,000 sq. ft.	5,000 sq. ft.	5,000 sq. ft.
75,000 sq. ft.	7,500 sq. ft.	7,500 sq. ft.
100,000 sq. ft.	10,000 sq. ft.	10,000 sq. ft.
200,000 sq. ft.	20,000 sq. ft.	20,000 sq. ft.
300,000 sq. ft.	30,000 sq. ft.	30,000 sq. ft. maximum
500,000 sq. ft.	50,000 sq. ft.	30,000 sq. ft. maximum

Hotel Design

- Street presence
- Parking location
- Windows and doors
- Rooftop mechanical equipment
- Materials

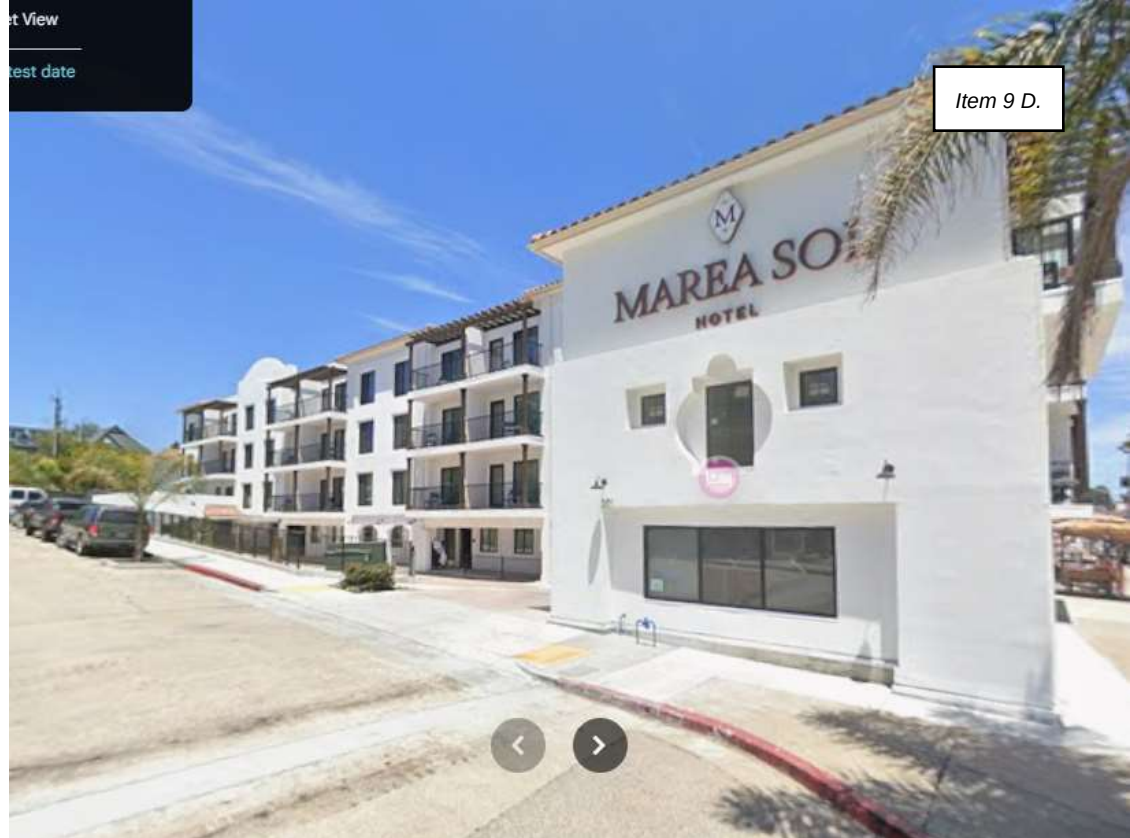
Hotel Operational Standards

- Site operations
- Neighborhood compatibility
- Maintenance and safety
- Municipal tax compliance

Hotel Examples

Recently built or under construction

- Marea Sol Hotel, Santa Cruz
- Lido House, Newport Beach



Marea Sol Hotel, Santa Cruz

55 ft, 4 stories, 49 guest rooms and
suites

Lido House, Newport Beach



59 ft roof ridge, 4 stories, 130 rooms and suites

Accessory Dwelling Units

New state ADU laws (2025):

- Revise process and timeframe for cities to review and act on ADUs and JADUs
- Modify owner occupancy requirements for JADUs,
- Clarify ADU provisions which also apply to JADUs

Body Art Studios

- Municipal Code Chapter 9.08 Prohibits tattoo establishments
- Zoning Code silent on this use
- Legal concerns: tattoo businesses considered protected First Amendments expression

New 17.96.080 (Body Art Studios)

- Limited: 2 in C-C & C-R and 1 in MU-V
- Conditional use permit required
- Initial 30-day application period: If applications exceeds maximum number, City will hold lottery
- After 30-day period: Applications accepted on first-submitted basis
- Repeals Chapter 9.08 (Tattoo Establishments)

New 17.96.080 (Body Art Studios)

Standards:

- Hours of Operation
- Minimum Separation
- Visibility of Procedures
- Indoor Procedures
- No alcohol
- Age limits
- Temporary/Mobile Facilities



Daycare 2020 Code Updates

Significant Updates

Rescinded: 17.96.070 – Large Home Day Care

~~A. Care Provider Owner Occupancy~~

~~B. License~~

~~C. 500 feet Separation~~

~~D. Yard Requirements~~

~~E. Screening fence or wall shall on all property lines or around all outdoor activity areas.~~

~~F. Noise~~

~~G. Parking.~~

~~H. Garage – used for property owner's vehicles~~

~~I. Safety Compliance & Inspections (Building Division, Fire Marshal)~~

~~J. Pick Up and Drop Off Plan~~

Daycare 2020 Code Updates

Type of Day Care	Residential Zones	Mixed Use Zones	Commercial Zones
	R-1 Multifamily Mobile Home	Mixed Use Village Mixed Use Neighborhood	Community Commercial Regional Commercial
Home Day Care - In home - Up to 14 Children	Permitted MUP	Permitted MUP	Permitted Not Allowed
Day Care Centers Nursery schools, childcare centers, infant day care centers, cooperative day care centers	CUP	MUP	MUP CUP

Recommendation

Consider and adopt resolutions recommending the City Council adopt amendments to Capitola Municipal Code pertaining to repeal and replace Chapter 17.88 (Incentives for Community Benefits), relocate existing village hotel incentives to a new Chapter 17.90 (Incentives for a Village Hotel with Community Benefits); amend Chapter 17.74 (Accessory Dwelling Units), 17.20 (Mixed Use Zoning Districts), Chapter 17.24 (Commercial and Industrial Zoning Districts), and Chapter 17.160 (Glossary); and Repeal of Municipal Code Chapter 9.08 (Tattoo Establishments).

Capitola City Council

Agenda Report

Meeting: September 10, 2026

From: Administrative Services Department

Subject: Fiscal Year 2025-26 Revenue and Expenditure Update



Recommended Action: Receive the Fiscal Year 2025-26 revenue and expenditure update and provide direction regarding the use of the \$1 million insurance settlement received for repairs associated with the 2023 Wharf storm damage.

Background: Staff has completed their review of major General Fund revenues and expenditures for Fiscal Year 2025-26. Overall, the City's financial performance was favorable, with revenues exceeding the adopted budget and expenditures finishing modestly above budget.

The year-end results warrant discussion and a recommendation regarding the \$1 million insurance settlement received in connection with repairs to Capitola's Wharf in 2023, caused by winter storm damage. The settlement provides an opportunity to replenish City reserves, which currently remain approximately \$900,000 below established target balance levels.

General Fund Revenue: Total General Fund revenues for Fiscal Year 2025-26 were \$21,601,965, compared to the adopted budget of \$21,011,349, resulting in a favorable variance of approximately \$590,616 or 2.8%.

The favorable revenue performance was driven primarily by stronger-than-budgeted sales tax, property tax, transient occupancy tax (TOT), building permit revenue, and parking citation revenue.

Sales Tax Revenue: Actual sales tax revenue was \$9,975,936, which was \$260,058 above budget. Bradley Burns sales tax accounted for the majority of the favorable variance, exceeding budget by \$220,786. Measure O exceeded budget by \$12,999, while Measure Y exceeded budget by \$26,273.

Property Tax Revenue: Property tax revenue totaled \$3,708,437, exceeding the adopted budget by \$117,437.

Transient Occupancy Tax (TOT) Revenue: TOT revenue totaled \$2,320,910, which was \$98,910 above the adopted budget of \$2,222,000. Approximately \$45,000 of the favorable variance resulted from late payments of prior-year TOT obligations.

Building Permit Revenue: Building permit revenue totaled \$534,852, compared to the adopted budget of \$410,000, resulting in a favorable variance of \$124,852, or approximately 30.5%. The stronger-than-budgeted permitting activity is a positive indicator of continued development and construction activity within the City.

Parking Citation Revenue: Parking citation revenue totaled \$506,748.51, compared to the amended budget of \$450,000, resulting in a favorable variance of \$56,748.51, or approximately 12.6%. The higher-than-budgeted revenue reflects stronger parking citation activity during the fiscal year.

Other revenue categories finished modestly below budget, including Cannabis Retail Tax, which was \$3,463 below budget; Franchise Tax, which was \$3,922 below budget; and Parking Meter revenue, which was \$7,059 below budget.

Overall, the favorable performance of the City's major revenue sources more than offset the modest unfavorable variances in other revenue categories and resulted in General Fund revenues exceeding the adopted budget by approximately \$591,000.

Insurance Settlement: The City received a \$1 million insurance settlement in connection with repairs to Capitola's Wharf in 2023, caused by winter storm damage. Because this is a one-time payment, staff does not recommend using the proceeds to fund ongoing operating expenditures.

Instead, the settlement provides an opportunity to restore reserves that were utilized or otherwise impacted by the 2023 Winter storms and associated repair costs.

Expenditures: Overall, expenditure performance was generally favorable at the department level, although several departments experienced unfavorable variances. Total General Fund expenditures exceeded the adopted budget by approximately \$104,784.

The primary reason for the overall expenditure overage was higher-than-budgeted legal expenditures in the City Attorney's Office. City Attorney expenditures totaled \$629,625, compared to a budget of \$325,000, resulting in an unfavorable variance of approximately \$304,625. This variance was driven in part by redistricting, Housing Element-mandated Mall rezoning, higher levels of public records act costs, and litigation associated with the flume. Prior to the annual audit, staff will evaluate these costs and allocate appropriate expenditures to special revenue funds, reducing the overall General Fund impact.

This overage was substantially offset by approximately \$200,000 in combined departmental operating savings.

Despite the overall expenditure overage, the City maintained a positive operating result for the fiscal year. When the favorable revenue performance is combined with the expenditure results, General Fund revenues exceeded expenditures by approximately \$486,000. This positive operating result improves the projected June 30, 2027, General Fund balance from approximately \$95,000 to \$581,000, slightly exceeding the City's \$500,000 target balance.

Reserves: The City's reserve position remains an important consideration in evaluating the year-end financial results. Current reserve balances are approximately \$900,000 below established target balance levels. Given the City's existing reserve position, staff recommends the \$1 million insurance settlement associated with the 2023 Wharf damage repairs be directed toward replenishing reserves.

Applying the settlement to reserves would eliminate the current reserve shortfall and provide greater financial stability heading into Fiscal Year 2026-27. It would also preserve the City's ongoing operating revenues for recurring expenditures rather than using a one-time insurance payment to support ongoing operations.

Staff further recommends the approximately \$100,000 in reserves above the established target balance be retained in the Emergency Reserve. At the August 27th City Council meeting, Council authorized the use of up to \$150,000 of funds from the City's Emergency Reserve for work on the Stockton Bridge.

In addition to the potential use of funds for the Stockton Bridge, additional costs for the recently completed districting effort are estimated at approximately \$40,000, emergency street repairs on Laurence Ave are estimated at \$50,000, and forecasted super El Nino storms this winter are other items staff is currently monitoring.

The Finance Advisory Committee (FAC) met on Tuesday, September 1st, and concurred with staff's recommendation. Additionally, the FAC requested to review the current Financial Management Policy that includes the reserve policies.

During the FY 2026-27 mid-year budget review, the City Council will have the opportunity to conduct a more comprehensive review of the City's financial position and budget performance after several months of FY 2026-27 operations. This review will also provide an opportunity to evaluate any financial impacts associated with the upcoming winter storm season.

Conclusion: Fiscal Year 2025-26 financial performance was generally favorable. General Fund revenues exceeded the adopted budget by approximately \$486,000, driven primarily by stronger-than-budgeted sales tax, property tax, TOT, building permit, and parking citation revenues.

Expenditure performance was generally favorable at the department level, with significant savings in the City Manager, Police, Public Works, and Community and Economic Development Departments helping to offset higher expenditures in the City Attorney's Office.

The resulting positive operating balance is expected to increase the projected June 30, 2027, General Fund balance from approximately \$95,000 to \$581,000, slightly above the City's \$500,000 target balance.

The separate \$1 million insurance settlement provides an opportunity to address the City's broader reserve shortfall. Staff recommends directing the settlement to reserves rather than using the one-time proceeds for ongoing operating expenditures.

Fiscal Impact: FY 2025-26 General Fund revenues exceeded the adopted budget by approximately \$591,000, before consideration of the separate \$1 million insurance settlement associated with the 2023 Wharf damage/repairs.

The estimated ending FY 2026-27 General Fund balance was initially projected at approximately \$95,000, significantly below the City's \$500,000 target balance. Based on the FY 2025-26 results, including approximately \$486,000 in revenues exceeding expenditures, the updated estimated June 30, 2027, General Fund balance is approximately \$581,000.

Separately, the City's reserves remain approximately \$900,000 below established target balance levels. Directing the \$1 million insurance settlement to reserves would restore the City's reserve position and result in approximately \$100,000 in reserves being above the established target balance.

Staff recommends retaining the additional \$100,000 above the target balance following Council's direction utilizing emergency reserve funds for the Stockton Bridge. The FY 2026-27 mid-year budget review will allow the Council to conduct a comprehensive evaluation of the FY 2026-27 budget and financial position, including any impacts that may result from the upcoming winter storm season.

Final fund balance and year-end financial results will be determined following completion of the City's year-end financial audit. Auditors will be site for year-end fieldwork the week of September 8 and anticipate completing the financial statements by late October/early November. Any required year-end budget adjustments will be brought forward separately, as appropriate.

Alignment with 2025-2029 Strategic Plan Priority: Accountable Government

Report Prepared By: Jim Malberg, Administrative Services Director

Reviewed By: Julia Gautho, City Clerk

Approved By: Jamie Goldstein, City Manager

Fiscal Year 2025-26 Revenue & Expenditure Update

City Council • September 10, 2026

FY 2025-26 Financial Overview

Overall financial performance was favorable.

General Fund revenues exceeded amended budget by approximately \$591,000 (2.8%).

General Fund expenditures exceeded amended budget by approximately \$105,000 (0.5%)

Positive operating result: approximately \$486,000

Projected June 30, 2027, General Fund balance improves from approximately \$95,000 to \$581,000.

Updated projection slightly exceeds the City's \$500,000 target balance.

Revenue Performance



- Total General Fund revenues: \$21.60 million
- Amended budget: \$21.01 million
- Favorable variance: approximately \$591,000 (2.8%).
- Largest contributors:
 - Sales tax
 - Property tax
 - Transient Occupancy Tax (TOT)
 - Building permit revenue
- Several smaller revenue categories finished modestly below budget.

Key Revenue Results

- Sales Tax: \$9,975,936
 - \$260,058 above budget
 - Bradley Burns: \$220,786 above budget
 - Measure Y: \$26,273 above budget
 - Measure O: \$12,999 above budget
- Property Tax: \$3,708,437
 - \$117,437 above budget
- TOT: \$2,320,910
 - \$98,910 above budget
 - Approximately \$45,000 of TOT variance due to late payment of prior-year obligations

Additional Revenue Results

- Building Permit Revenue: \$534,852 vs. \$410,000 budget.
 - Favorable building permit variance: \$124,852 (30.5%).
- Parking Citation Revenue: 506,749 vs. \$450,000 amended budget.
 - Parking citation variance: \$56,749 above budget (12.6%).
- Unfavorable variances:
 - Cannabis Retail Tax: \$3,463 below budget
 - Franchise Tax: \$3,922 below budget
 - Parking Pay Station Revenue: \$7,059 below budget

Expenditure Performance

- Total General Fund expenditures exceeded adopted budget by approximately \$105,000.
 - Primary unfavorable variance: City Attorney.
 - City Attorney expenditures: \$629,625 vs. \$325,000 budget.
 - Unfavorable City Attorney variance: approximately \$304,625.
 - Contributing items include: Districting, Housing Element-mandated mall rezoning, higher levels of PRA's, and litigation associated with the flume
 - Staff will evaluate appropriate allocation of qualifying costs to special revenue funds during the annual audit.
 - Substantially offset by approximately \$200,000 in combined departmental operating savings

General Fund Balance



FY 2025-26 revenues exceeded expenditures by approximately \$486,000.



Initial estimated June 30, 2027, General Fund balance: approximately \$95,000.



Updated estimated June 30, 2027, balance: approximately \$581,000.



City target balance: \$500,000.

Insurance Settlement

\$1 million insurance settlement received for repairs associated with the 2023 Wharf damage.

Settlement is a one-time revenue source.

Staff does not recommend using proceeds for ongoing operating expenditures

Staff recommends directing settlement to reserves impacted by 2023 winter storms and associated repair costs.

Reserve Position

Current reserves are approximately \$900,000 below established target balance levels.

Applying \$1 million settlement to reserves would eliminate current shortfall.

Resulting reserve position would be approximately \$100,000 above established target levels.

Staff recommends retaining additional \$100,000 in Emergency Reserve.

Emergency Reserve & FY 2026-27

Non-Budgeted Items currently monitoring

- Council authorized use of up to \$150,000 from Emergency Reserve for Stockton Bridge work.
- Recently completed districting effort: approximately \$40,000 in additional costs.
- Emergency street repairs on Laurence Avenue: approximately \$50,000.
- Staff is also monitoring potential impacts from forecasted Super El Niño winter storms.

Emergency Reserve & FY 2026-27

FY 2026-27 mid-year budget review will provide an opportunity to:

- Review financial performance after several months of operations
- Evaluate budget and fund balance projections
- Assess potential impacts from upcoming winter storm season

Finance Advisory Committee Recommendation

- Finance Advisory Committee met September 1, 2026.
 - FAC concurred with staff's recommendation to direct \$1 million settlement to reserves.
 - FAC also requested review of the City's Financial Management Policy, including reserve policies.

Next Steps / Audit



Year-end financial results remain subject to completion of the City's financial audit.



Auditors will be on site for year-end field work the week of September 8.

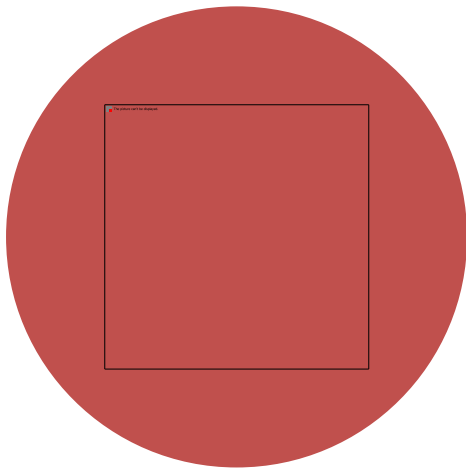


Financial statements are anticipated to be completed by late October / early November.

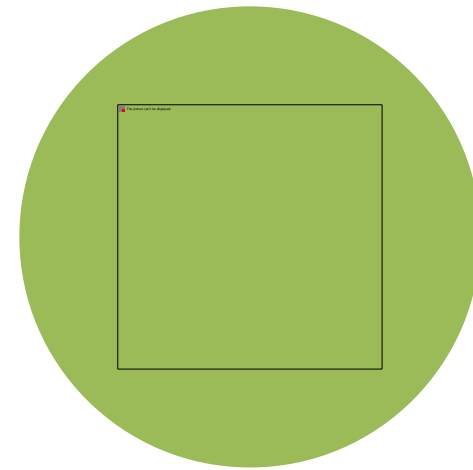


Any required year-end budget adjustments will be brought forward separately, as appropriate.

Recommended Action



RECEIVE FY 2025-26 REVENUE
AND EXPENDITURE UPDATE.



PROVIDE DIRECTION
REGARDING USE OF \$1
MILLION INSURANCE
SETTLEMENT