



AGENDA
CITY OF SEASIDE
CITY COUNCIL

REGULAR MEETING
Council Chamber
440 Harcourt Avenue
Thursday, May 16, 2019
7:00 PM

1. CALL TO ORDER

2. ROLL CALL – ESTABLISHMENT OF QUORUM

Ian N. Oglesby	Mayor
David R. Pacheco	Mayor Pro Tem
Jason Campbell	Council Member
Jon Wizard	Council Member
Alissa Kispersky	Council Member

3. INVOCATION AND PLEDGE OF ALLEGIANCE

4. REVIEW OF AGENDA

If there are any items that arose after the 72-hour posting deadline, this is the point in the meeting where a vote may be taken to add the item to the agenda. (A 2/3-majority vote is required).

5. PUBLIC COMMENT

Members of the public wishing to address the City Council on matters within the jurisdiction of the City of Seaside, but not on this agenda, may do so during the Public Comment period for up to three minutes. Public Comments on specific agenda items are heard under that item. For the public record, please state your name.

6. PUBLIC AGENCY COMMUNICATIONS

This is a time specifically set aside for representatives of public agencies to make brief comments of general interest to the City Council and the community.

7. PRESENTATIONS

A. PROCLAMATION DECLARING MAY 19-25, 2019 AS "NATIONAL PUBLIC WORKS WEEK" IN THE CITY OF SEASIDE AND RECOGNITION OF THE 2018 PUBLIC WORKS EMPLOYEES OF THE YEAR

B. PRESENTATION REGARDING THE 2020 CENSUS

C. PRESENTATION OF THE 2019 FIREWORKS OPERATIONS AND ENFORCEMENT PLAN

D. DEL MONTE MANOR DRAINAGE IMPROVEMENT UPDATE

8. CONSENT AGENDA

A. APPROVE MINUTES FROM APRIL 30, 2019 AND MAY 2, 2019

RECOMMENDATION: That the minutes are reviewed and approved.

B. APPROVE AND FILE CITY CHECKS

RECOMMENDATION: Approve and file the accounts payable and wired payments made during the period of April 20, 2019 through May 3, 2019 including the payroll and benefits checks, direct deposits and wired payments related to the pay period of April 25, 2019. Total Accounts Payable and Payroll for the above referenced period is \$1,651,358.67.

C. PROCLAMATION RECOGNIZING POLLINATOR WEEK: JUNE 17-23, 2019

RECOMMENDATION: To proclaim the week of June 17-23, 2019 as Pollinator week in the City of Seaside.

D. PROCLAMATION RECOGNIZING THE MONTH OF MAY 2019 AS "POPPY MONTH"

RECOMMENDATION: That the City proclaim the month of May 2019 as "Poppy Month" in the City of Seaside.

E. APPROVE THE TRAFFIC ADVISORY (TAC) COMMITTEE RECOMMENDATIONS

RECOMMENDATION: Approve the Traffic Advisory Committee recommendations placing delineators (channelizers) in the centerline on Plumas Avenue at various locations between Noche Buena Street and Highland Street.

F. ADOPT RESOLUTION CANCELING THE JULY 4, 2019 REGULAR COUNCIL MEETING

RECOMMENDATION: Adopt resolution canceling the meeting as it falls on Independence Day.

G. ADOPT A RESOLUTION IN SUPPORT OF THE 2020 CENSUS

RECOMMENDATION: Adopt a resolution in support of the Monterey County 2020 Census Complete County Committee and the 2020 Census Peninsula Action Team.

H. ADOPT A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE APPROVING THE 2019 FIREWORKS SURCHARGE PERCENTAGE.

RECOMMENDATION: Approve resolution for the proposed 2019 Fireworks Surcharge of seven percent as outlined in the City of Seaside Municipal Code Chapter 8.32 relating to fireworks.

I. ADOPT A RESOLUTION AUTHORIZING THE CITY OF SEASIDE AND SEASIDE RAIDERS YOUTH FOOTBALL MEMORANDUM OF UNDERSTANDING

RECOMMENDATION: Adopt the resolution and authorize execution of the Memorandum of Understanding to memorialize the partnership between the City of Seaside and Seaside Raiders Youth Football program.

J. ADOPT A RESOLUTION TO APPROPRIATE \$18,000 FROM THE CAPITAL RESERVE FUND FOR THE CONSTRUCTION OF TEMPORARY STORAGE FACILITIES

RECOMMENDATION: Appropriate \$18,000 from Capital Reserve fund for the construction of a temporary storage facility to provide the City with the ability to store personal items that may be acquired from the public.

9. PUBLIC HEARING

- A. APPEAL OF PLANNING COMMISSION DENIAL FOR USE PERMIT APPLICATION NO. UP-19-01. LARRY AMOS, APPLICANT, IS APPEALING THE PLANNING COMMISSION DENIAL OF A USE PERMIT TO ALLOW THE ESTABLISHMENT OF AN ITINERANT VENDOR TO COOK AND SELL BARBECUE FOOD PRODUCTS OUTDOORS IN THE REAR OPEN SPACE AREA OF TERRACE LIQUORS LOCATED AT 1949 FREMONT BOULEVARD IN THE REGIONAL COMMERCIAL (CRG) ZONING DISTRICT. THE PROJECT IS EXEMPT CLASS 3, SECTION 15303(E) FROM THE CALIFORNIA ENVIRONMENTAL ACT (CEQA) GUIDELINES.**

RECOMMENDATION: In accordance with Section 17.52.190.E of the Seaside Municipal Code (SMC), the use of a barbecue trailer/food trailer for the purpose of selling cooked food outdoors on private property may be allowed with the issuance of a Use Permit. In accordance with Section 17.76.020.C SMC, the City Council has authority over use permits that are appealed from the Planning Commission decision. Staff recommends that the City Council overturn the denial of Use Permit Application No. UP-19-01 and approve Use Permit Application No. UP-19-01 subject to the conditions listed in the Draft Resolution.

- B. ADOPTION OF AN ORDINANCE TO AMEND CHAPTER 2.14 BOARD AND COMMISSIONS TO EXPAND THE MEMBERSHIP OF THE PARKS AND RECREATION COMMISSION AND THE NEIGHBORHOOD IMPROVEMENT COMMISSION BY ADDING ADDITIONAL MEMBERS AND TO CODIFY THE ENVIRONMENTAL COMMITTEE AND COMMISSION ON THE STATUS OF HOMELESSNESS (SECOND READING, ROLL CALL VOTE)**

RECOMMENDATION: Adopt draft Ordinance to expand the Parks and Recreation Commission and the Neighborhood Improvement Program and to codify the Environmental Commission and Commission on the Status of Homelessness into the Municipal Code.

10. BUSINESS ITEMS

- A. ADOPT A RESOLUTION ENDORSING ASSEMBLY BILL 392: AN ACT TO AMEND SECTIONS 196 AND 835a OF THE PENAL CODE, RELATING TO THE USE OF FORCE BY PEACE OFFICERS**

RECOMMENDATION: Discuss adoption of a resolution of support for Assembly Bill 392.

11. COUNCIL MEMBER REQUESTS

A. CONSIDER AGENDIZING A REQUEST TO ADD A CITY TREASURER (OGLESBY)

RECOMMENDATION: That the Council discuss agendizing this request.

12. MAYOR, CITY COUNCIL, CITY MANAGER AND CITY ATTORNEY COMMENTS AND REPORTS ON COMMITTEE ASSIGNMENTS

This is a time specifically set aside for members of the City Council, the City Manager and City Attorney to make brief comments of general interest to the community, make requests that items be added to future City Council meeting agendas as necessary and report on committee assignments.

13. ADJOURNMENT

Next Regularly Scheduled Meeting:

June 6, 2019

7:00 PM

The City of Seaside is committed to providing accessible facilities and accommodating people with disabilities in all of its services programs and activities. If special considerations are needed by any person to fully participate in this meeting, contact the City Clerk at 899-6707 no fewer than two business days prior to the meeting to allow reasonable arrangements. The City Council chamber is equipped with a portable microphone and assisted listening devices are available at all meetings. City Council Meetings that are held in the City Council Chambers are broadcast live to all Seaside residents on Comcast Channel 25 and U-verse Channel 99. Live streamed meeting videos as well as videos of past meetings are available on the City's website at: <http://www.ci.seaside.ca.us/129/City-Council-Committee-Agendas>

Agenda-related writings or documents provided during public meetings are available for public inspection during the meeting or from the office of the City Clerk. This agenda is posted in compliance with California Government Code Section 54954.2(a) or Section 54956.

City of Seaside PROCLAMATION



National Public Works Week May 19-25, 2019

WHEREAS, public works infrastructure, facilities and services are of vital importance to sustainable communities and to the health, safety and well-being of the people of this community; and

WHEREAS, such facilities and services could not be provided without the dedicated efforts of public works professionals, engineers, managers and employees from State and local units of Government and the private sector, who are responsible for and must plan, design, build, operate, and maintain the transportation, water supply, water treatment and solid waste systems, public buildings, and other structures and facilities essential to serve our citizens; and

WHEREAS, the health, safety, and comfort of this community greatly depends on these facilities and services; and

WHEREAS, it is in the public interest for the citizens, civic leaders and children in the United States of America to gain knowledge of and maintain a progressive interest and understanding of the importance of public works and public works programs in their respective communities; and

WHEREAS, the year 2019 marks the 59th annual National Public Works Week sponsored by the American Public Works Association.

NOW THEREFORE, BE IT PROCLAIMED, that I, The Honorable Ian Oglesby, Mayor of the City of Seaside, on behalf of the City Council, do hereby proclaim May 19-25, 2019, as "**National Public Works Week**" and I urge all our people to join with representatives of the American Public Works Association and government agencies in activities and ceremonies designed to pay tribute to our public works professionals, engineers, managers and employees and to recognize the substantial contributions they have made to our national health, safety, welfare and quality of life.

*Ian Oglesby, Mayor
May 16, 2019*



CITY OF SEASIDE STAFF REPORT

Item No.: 7.C.

TO: City Council

FROM: Craig Malin, City Manager

BY: Judy Veloz, Deputy Chief

DATE: May 16, 2019

SUBJECT: PRESENTATION OF THE 2019 FIREWORKS OPERATIONS AND ENFORCEMENT PLAN

PURPOSE & RECOMMENDATION

The purpose of this item is for the City Council to receive a presentation on the proposed illegal fireworks operations plan for the 2019 year. It is recommended that the City Council receive the presentation.

BACKGROUND

The City of Seaside has a zero tolerance policy for illegal fireworks. The Seaside Police Department, in partnership with the Seaside Fire Department, has formulated an operations plan for illegal firework suppression beginning in May and continuing through July of 2019. The operation will focus on public education, and the safety of citizens, visitors, and property from use of illegal fireworks. The operations plan includes:

Public Education and Warnings

The Seaside Police Department will work begin an illegal firework outreach campaign on May 27th, 2019. Public Service Announcements, media releases, flyers, mailers and informational video will be used to educate and warn Seaside property owners, Seaside residents, and Neighborhood Watch and Business Block Watch groups regarding enforcement and fines for possession or use of illegal fireworks. This campaign will also be used to promote safe practices for using Safe and Sane Fireworks. The Seaside Police Department's website, which is set up to receive tips from either anonymous or identified sources, will be advertised as a way for people to report illegal firework possession and use. Photos can be uploaded by the reporting parties. Citations will be

issued if possible, based on the information provided on this site.

Public Works will place electric sign boards in three locations Fremont Blvd. at Kimball Ave., Canyon Del Rey Blvd. at Del Monte Blvd., and LaSalle Ave. at Fremont Blvd. The signs will be in place beginning June 21, 2018. They will warn of \$2,500 fines for illegal firework possession and will inform citizens the City will be utilizing aerial photography and undercover officers to enforce fireworks ordinances.

The School Resource Officer will give an educational presentation to Seaside High School and Seaside Middle School prior to the last day of school in June.

Enforcement

Thirty days prior to July 4th, the Seaside Police Department will coordinate with the Peninsula Regional Violence Narcotics Team (PRVNT) to gather possible intelligence on illegal fireworks being brought into the City. If intelligence is obtained the appropriate operations will be executed to confiscate the contraband and cite or arrest the individuals involved.

All holiday, vacation, and regular days off have been cancelled for police department employees on July 4, 2019. Approximately twenty Seaside police officers will be on duty specifically dedicated to the illegal fireworks operation on the Fourth of July.

Beginning Friday June 28th through Friday July 5th, two to four extra officers will be assigned to work special illegal firework patrol details. This time frame may be extended based on available staffing in July.

Officers working on any of the illegal firework patrol details will provide coverage to the entire City, and will pay special attention to areas which have been problematic in past years. Several officers will drive unmarked cars and wear subdued tactical uniforms so they are not easily recognizable to those who possess illegal fireworks. Officers may patrol in teams on foot in areas where there is a high likelihood illegal fireworks will be used. There is an expectation that this tactic will result in the issuance of numerous citations, both administrative and criminal.

An adequate number of officers and a sergeant will be on duty at all times during the above operations and will be dedicated to regular calls for service. They will not respond to fireworks related details.

The Seaside Fire Department will deploy drones to monitor places open to the public for fire safety hazards and gather data which is expected to result in video evidence of illegal firework possession and use. This video evidence will be used to issue administrative and criminal citations. This enforcement technique will be publicized through social, print and electronic media in the weeks preceding July 4 in an effort to deter individuals from obtaining and using illegal fireworks within the city.

Seaside Police Website

The Seaside Police Department's website <http://www.tipsoft.com/index.asp?P=WebTips> will be monitored for tips regarding illegal firework possession and use. Any viable information will be used for enforcement and the issuance of citations.

Illegal Firework Collection and Disposal

The Seaside Police Department will use the services of Clean Management Environmental Group on July 4, 2019 from 6:00 PM until approximately midnight. CMEG will provide a truck designed to transport explosive ordinances, along with two employees trained to collect and transport them. Seaside Police Officers will direct them to the locations where the illegal fireworks have been confiscated. At the end of the night the CMEG employees will collect the illegal fireworks that have been stored from previous years (approximately 60 lbs of illegal fireworks) and transport them, along with the illegal fireworks collected this July and dispose of them in entirety.

FISCAL IMPACT

\$29,795.00

Two to four extra officers will be assigned to work four hour special firework patrol details on an overtime basis from June 28, 2019 through July 5, 2019. Approximately twenty officers will work on an overtime basis on July 4, 2018. The additional staffing will result in personnel overtime costs of approximately \$26,000.00

Clean Management Environmental Group will charge \$950.00 for disposal of less than 150 lbs of illegal fireworks. The police department is currently storing approximately 60 lbs of illegal fireworks confiscated over the last three years. It is not anticipated that the total weight of the illegal fireworks from previous years in addition to the illegal fireworks confiscated this year will reach a total of 150 lbs. The cost for the dedicated truck for transport and standby on July 4th is \$2500.00. There will be an additional Export Management Fee at 10% of the total cost totaling \$345.00. The total estimated cost for Clean Management Environmental Group services is \$3795.00

The City will contract with the Monterey College of Law to provide for administrative citation hearings. Costs for the hearings and the operational expenses of illegal fireworks enforcement are expected to be offset with fine revenue.

ATTACHMENTS

None

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager



CITY OF SEASIDE STAFF REPORT

Item No.: 7.D.

TO: City Council

FROM: Craig Malin, City Manager

BY: Rick Riedl, City Engineer
Scott Ottmar, Senior Engineer

DATE: May 16, 2019

SUBJECT: DEL MONTE MANOR DRAINAGE IMPROVEMENT UPDATE

PURPOSE & RECOMMENDATION

Receive presentation of project status for proposed drainage improvements at the Del Monte Manor.

BACKGROUND

The Del Monte Manor (Manor) Drainage Improvements Project proposes to reconstruct a portion of an existing drainage basin located on the Manors' southwestern corner with stormwater capture and treatment facilities. The facility's purpose is to help mitigate flooding issues at the Manor, treat and infiltrate runoff from the surrounding area, and improve the aesthetics of the drainage basin. The project will reduce urban runoff pollutant loads by routing runoff from the tributary catchment to a proposed pre-treatment bioswale, adjacent to Sonoma Avenue's northern sidewalk. The bioswale would function as a volume-stormwater control measure (SCM) that will retain and infiltrate stormwater into the fast-draining native dune sand. The bioswale would utilize native plants for treatment and aesthetic benefit. The project is estimated to infiltrate up to 14 acre feet per year into the Seaside Groundwater Basin. Overflow from the bioswale would be piped to the existing storm drain system in Yosemite Street.

FISCAL IMPACT

There is no fiscal impact for receiving the presentation.

ATTACHMENTS

None

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.A.

TO: City Council

FROM: Craig Malin, City Manager

BY: Lesley Milton-Rerig, Public Affairs Officer/City Clerk

DATE: May 16, 2019

SUBJECT: APPROVE MINUTES FROM APRIL 30, 2019 AND MAY 2, 2019

PURPOSE & RECOMMENDATION

That the minutes are reviewed and approved.

BACKGROUND

Going forward, All Brown Act meetings which are recorded will have Action Minutes prepared for approval, consistent with the current Seaside Municipal Code as stated below. While Discussion Minutes and Verbatim Minutes can be useful at times, with the technological availability of meeting videos, questions, concern or historical research regarding meeting discussion can be referred to the video, which is kept in perpetuity per the City's record retention schedule.

2.02.330 Minutes – Preparation.

A. The minutes shall consist of a clear and concise statement of each and every council action including the motions made and the vote thereon. Reasons for making a motion, or voting, council debate and audience reaction may be included if considered to be particularly relevant or otherwise necessary, by the city clerk in the first instance and by the council in the final instance. The city clerk shall have exclusive responsibility for preparation of the minutes, and any directions for changes in the minutes shall be made only by action of the city council.

2.02.340 Minutes – Hearings.

Whenever the council acts in a quasi-judicial proceeding, such as hearings as defined in SMC 2.02.400, the minutes shall contain a synopsis of all evidence considered in the hearing including statements of persons addressing the council.

(Ord. 382, 1970; prior code § 1-200(H-2))

FISCAL IMPACT

There is no fiscal impact associated with this item but there will be significant staffing efficiencies as a result.

ATTACHMENTS

1. April 30, 2019 Special Meeting Draft Minutes
 2. May 2, 2019 Regular Meeting Draft Minutes
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager



DRAFT MINUTES
CITY OF SEASIDE
CITY COUNCIL

SPECIAL MEETING
Council Chamber
Tuesday, April 30, 2019
6:00 PM

1. CALL TO ORDER

Mayor Oglesby called the meeting to order at 6:00 PM

2. ROLL CALL – ESTABLISHMENT OF QUORUM

PRESENT: Campbell, Kispersky, Oglesby, Pacheco, Wizard

ABSENT: None

3. PUBLIC COMMENT

Speaker: Ron Cheshire

4. BUSINESS ITEMS

A. CONSIDER AGENDIZING A DISCUSSION FOR ESTABLISHING A CITY POSITION ON SENATE BILL 189 REGARDING THE EXTENSION FO THE FORT ORD REUSE AUTHORITY (CAMPBELL)

Action: Approved

On motion by Council Member Wizard and seconded by Council Member Pacheco and passed unanimously, the City Council authorized to agendize request.

RESULT: *Approved 5-0*

5. CLOSED SESSION

The City Council adjourned to closed session to discuss item 4A.

A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54956.8:

There were no announcements from Closed Session.

6. ADJOURNMENT

On motion, the meeting was adjourned at 7:14 pm.

Respectfully submitted,

Lesley Milton-Rerig, City Clerk

Ian N. Oglesby, Mayor



DRAFT MINUTES
CITY OF SEASIDE
CITY COUNCIL

REGULAR MEETING
Council Chamber
Thursday, May 2, 2019
7:00 PM

1. CALL TO ORDER

Mayor Oglesby opened the meeting at 7:00 PM.

2. ROLL CALL – ESTABLISHMENT OF QUORUM

PRESENT: Campbell, Kispersky, Oglesby, Pacheco, Wizard

ABSENT: None

3. INVOCATION AND PLEDGE OF ALLEGIANCE

4. REVIEW OF AGENDA

No changes.

5. PUBLIC COMMENT

Speakers: Alan Groves, Kathy Rivera, Catherine Crockett, Sam Rashkin, Peter Keiser

6. PUBLIC AGENCY COMMUNICATIONS

Alvin Edwards, Division 1 Monterey Water Management District spoke to the ribbon cutting Saturday May 4th at King Elementary and Police Chief Pridgen acknowledged two students from Seaside Middle School for winning the naming competition for the SNAAC van.

7. PRESENTATIONS

A. CANYON DEL REY BOULEVARD CORRIDOR STUDY

Rich Deal, Transportation Director for the Transportation Agency for Monterey County presented an overview of the Canyon Del Rey corridor study including recommendations for improvements specific to the City of Seaside. He spoke to the safety benefits of considering installation of a round about right at the entry of Seaside City Hall with cross walks. Citing that Canyon Del Rey is still a state property, he reported there are anticipated improvements to be made in the near future to the street, including installation of sidewalks.

8. CONSENT AGENDA

On motion by Mayor Pro Tem Dave Pacheco and seconded by Council Member Jason Campbell and passed by the following vote the City Council approved the Consent Agenda with the exceptions of items F and G.

RESULT: *Approved 5-0*

A. APPROVAL OF MINUTES FROM APRIL 4, 2019 AND APRIL 18, 2019 REGULAR MEETINGS

Action: Approved

B. APPROVE AND FILE CITY CHECKS

Action: Approved and Filed

C. PROCLAMATION DESIGNATING MAY AS SMALL BUSINESS MONTH IN SEASIDE

Action: Accepted

D. APPOINTMENT OF BOARD, COMMISSION AND COMMITTEE MEMBERS TO FILL CURRENT VACANCIES

Action: Approved

E. APPROVE A FEE WAIVER REQUEST FROM THE MONTEREY INTERNATIONAL BLUES FESTIVAL TO USE THE CITY OF SEASIDE'S STAGE FOR THEIR 3RD ANNUAL BLUES FESTIVAL

Action: Approved

F. APPROVE A RESOLUTION TO AWARD A CONTRACT TO DON CHAPIN COMPANY FOR THE INSTALLATION OF REPLACEMENT STORM DRAIN GRATES FOR AN AMOUNT NOT TO EXCEED OF \$234,850

Action: Approved Resolution 19-27

On motion by Council Member Jon Wizard and seconded by Mayor Pro Tem Dave Pacheco and passed by the following vote the City Council Approved Resolution 19-27 awarding a contract to Don Chapin Company for the installation of replacement storm drain grates.

RESULT: Approved 5-0

G. APPROVE A RESOLUTION MODIFYING THE POSITION ALLOCATION LIST TO ADD ONE HOUSING PROGRAM MANAGER

Action: Approved Resolution 19-28

On motion by Council Member Jon Wizard and seconded by Council Member Alissa Kispersky and passed by the following vote the City Council approved Resolution 19-28 modifying the position control list to add the control manager and make sure it is understood to include all of the conversation with specific amendments to the job description adding examples of essential job functions, qualifications and abilities and ways in which it could implement the housing white paper strategies from MBEP.

RESULT: Approved 5-0

9. PUBLIC HEARING

A. PUBLIC HEARING TO CONSIDER THE 2019-2020 CITY OF SEASIDE COMMUNITY DEVELOPMENT BLOCK GRANT ANNUAL ACTION PLAN

Sharon Mikesell presented the draft Annual Action plan for the second year of the two year Community Development Block Grant funding cycle. She reported that grant

funding has not been announced and the estimates are projected to be the same as the previous year at \$463,000. She spoke to the Public Service sub-participant projects and impacts and the total budgeted funds for services is \$69,000 the remainder will go to the selected capital improvement projects.

Mayor Oglesby invited comments from the public and had no requests to speak.

On motion by Council Member Jason Campbell and seconded by Council Member Alissa Kispersky and passed by the following vote the City Council authorized the submittal of the 2019-2020 annual action plan once the funding recommendations have been released, but no later than august 16, 2019.

RESULT: *Approved 5-0*

B. PUBLIC HEARING TO CONSIDER THE MONTEREY COUNTY REGIONAL ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE (AI)

Administrative Analyst Mikesell presented the item explaining that as a requirement for receiving federal HUD funding every agency is required to complete a regional analysis of impediments to fair housing choices. Housing Consultant Veronica Tam provided a brief analysis of the AI and how as a region we can actively overcome the impediments to fair housing. She spoke to the public review period and public hearings that have been held and are continuing throughout the five Monterey County jurisdictions. Key findings include disparities in access to opportunities in the region due to transportation, concentration of affordable housing and lending practices. The report presented the actionable areas to address the key findings.

Mayor Oglesby opened the public hearing and invited comments from the public.

- Sam Rashkin spoke in support of the document as a historic and data driven resource.

The Council agreed that this document will be a great resource for the new Housing Program Manager.

On motion by Council Member Jason Campbell and seconded by Mayor Pro Tem Dave Pacheco and passed by the following vote the City Council approved the staff recommendation and received the Monterey County Regional Analysis of Impediments to Fair Housing Choices report as presented.

RESULT: *Approved 5-0*

C. INTRODUCTION OF AN ORDINANCE TO AMEND CHAPTER 2.14 BOARD AND COMMISSIONS TO EXPAND THE MEMBERSHIP OF THE PARKS AND RECREATION COMMISSION AND THE NEIGHBORHOOD IMPROVEMENT COMMISSION BY ADDING ADDITIONAL MEMBERS AND TO CODIFY THE ENVIRONMENTAL COMMITTEE AND COMMISSION ON THE STATUS OF HOMELESSNESS.

City Clerk Milton-Rerig spoke to the intent of the item to expand the commissions in response to the increased requests to participate on city boards and commission as well as formalize the two commissions adopted by the City Council in 2018.

Mayor Oglesby invited public comments on the draft ordinance.

- Sam Rashkin encouraged and active onboarding process to help new commissioners understand their role.
- Pastor Murray spoke in support of the codification of the Homeless Committee citing the great work they are doing in the community.

Mayor Oglesby suggested looking at subcommittees that can take volunteers to accommodate anyone who wants to volunteer. Council Member Campbell requested that better communication methods between the Council and the Commissions be developed including the assignment of City Council liaisons.

On motion by Council Member Jon Wizard and seconded by Mayor Pro Tem Dave Pacheco and passed by the following vote the City Council passed to print the draft ordinance amending Chapter 2.14 Boards and Commissions to expand the membership of the Parks and Recreation Commission and the Neighborhood Improvement Commission by adding additional members and to codify the Environmental Committee and Commission on the Status of Homelessness.

RESULT: *Approved 5-0*

10. BUSINESS ITEMS

A. DISCUSS AND APPROVE CITY MANAGER EVALUATION PROCESS

Action: Direction provided to staff to move forward with the evaluation process to include the proposed five point rating scale, multi input questionnaires and established competencies.

On motion by Council Member Jason Campbell and seconded by Council Member Alissa Kispersky and passed by the following vote the City Council approved the proposed evaluation process with for both the City Manager and City Attorney positions but to only go forward with evaluating the City Manager at this time.

RESULT: *Approved 5-0*

B. PRESENTATION OF THE 2019-2020 CITY STRATEGIC WORK PLAN

Action: Discussed and provided direction.

The Council requested the following: Deliver quarterly updates, with in progress completion levels, that the plan be for a 12 month period and that there be the addition for an item regarding paving and sidewalks.

11. COUNCIL MEMBER REQUESTS

A. CONSIDER AGENDIZING A REQUEST TO INVITE A MEMBER OF THE TOBACCO CONTROL PROGRAM OF THE COUNTY OF MONTEREY'S PUBLIC HEALTH DEPARTMENT TO LEAD A STUDY SESSION ABOUT SMOKING AND ITS RELATED EFFECTS (WIZARD)

Action: Agendized

On motion by Council Member Jon Wizard and seconded by Council Member Alissa

Kispersky and passed by the following vote the City Council agreed to agendize a presentation regarding Monterey County Public Health Department's Tobacco Control Program regarding smoking and its related effects at a future meeting.

RESULT: *Approved 5-0*

B. CONSIDER AGENDIZING A REQUEST FOR A WATER STRATEGY STUDY SESSION TO BRAINSTORM WAYS SEASIDE CAN SECURE ITS WATER FUTURE. (CAMPBELL)

Action: Agendized

On motion by Council Member Jason Campbell and seconded by Mayor Pro Tem Dave Pacheco and passed by the following vote the City Council agreed to agendize a study session to study current water supply and water allocations and look to the future to find additional water supplies.

RESULT: *Approved 5-0*

12. MAYOR, CITY COUNCIL, CITY MANAGER AND CITY ATTORNEY COMMENTS AND REPORTS ON COMMITTEE ASSIGNMENTS

Mayor Oglesby requested staff to look at excessive fees for food trucks and report back, requested an update on the street repairs and requested to agendize that the Council agendize appointing a City Treasurer.

13. ADJOURNMENT

On motion, the meeting was adjourned at 10:27 PM in honor of Dr. Welton McGee.

Respectfully submitted,

Lesley Milton-Rerig, City Clerk

Ian N. Oglesby, Mayor



CITY OF SEASIDE STAFF REPORT

Item No.: 8.B.

TO: City Council

FROM: Craig Malin, City Manager

BY: Lori Merwin, Finance Assistant
Kimberly Drabner, Finance Director

DATE: May 16, 2019

SUBJECT: APPROVE AND FILE CITY CHECKS

PURPOSE & RECOMMENDATION

Approve and file the accounts payable and wired payments made during the period of April 20, 2019 through May 3, 2019 including the payroll and benefits checks, direct deposits and wired payments related to the pay period of April 25, 2019. Total Accounts Payable and Payroll for the above referenced period is \$1,651,358.67.

BACKGROUND

In accordance with Government Code Section 37208, at each City Council meeting the Council is provided a listing of the payroll and general checks issued since the last report so that it can inspect and confirm these checks. Each purchase has been reviewed and approved by the department making the purchase at the time of procurement. The invoice has been reviewed by the Finance Department prior to payment to ensure that it conforms to the approved budget.

Therefore, in accordance with Government Code Section 37208, the above referenced, and linked list of checks conforms to the approved budget and has been paid. These checks are submitted to the City Council for inspection and confirmation.

A description of the checks and wires exceeding \$10,000 are as follows:

- \$575,926.48 for Payroll and benefits.
- \$14,355.00 to County of Monterey - Department of Emergency Communications for FY2018/19 Quarter 4 payment for Next Generation (radio project) operations and maintenance fee.
- \$331,395.84 to Granite Rock Company for David Cutino Park - Phase I. Work

period through 3/31/2019 (application payment #3). Services included: mobilization, demo / clear & grub, hardscape paving, synthetic turf field, electrical, skate park, black clad chain link fence, pathway lighting, and contract change orders 1 & 2.

- \$12,766.00 to League of California Cities for membership dues for calendar year 2019.
- \$31,442.46 to U.S. Bank - CalCard for City of Seaside purchase card transactions for the billing period of 1/23/2019 - 2/22/2019.
- \$164,589.31 to Don Chapin Company, Inc. for David Cutino Park - ADA improvement services (application payment #'s 2 - 5). Appl #2 (\$140,065.63) for work completed through 11/30/2018: mobilization / demobilization, drainage and utilities, concrete flatwork, restroom upgrades, snack shack upgrades, and landscaping. Appl #3 (\$6,460) for work completed through 1/31/2019: mobilization / demobilization, restroom upgrades, and snack shack upgrades. Appl #4 (\$8,424.06) for work completed through 3/31/2019: concrete flatwork, and project closeout. Appl #5 (\$9,639.62) as a retention payment through 3/31/2019.
- \$59,115.60 to Axon Enterprises, Inc. for (40) Police Department body cameras and (40) tasers. This is Year 2 of a 5-year agreement.
- \$76,286.19 to Raimi & Associates, Inc. for Seaside General Plan and EIR project management services for the period of October, 2018 through January, 2019. October, 2018 services (\$4,985.00); November - December, 2018 services (\$47,933.77); January, 2019 services (\$23,367.42).
- \$14,077.00 to Del Monte Manor for Quarter 3, FY2018/19 CDBG payment for security system installation (contractor - Searle Electric).

The remaining checks, totaling \$371,404.79 include payments to vendors for operating expenditures.

The Checks report is available on the City's website here:

<http://www.ci.seaside.ca.us/194/Check-Draft-Register>

FISCAL IMPACT

There are no additional fiscal impacts.

ATTACHMENTS

None

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.C.

TO: City Council

FROM: Craig Malin, City Manager

BY: Beth Rocha, Associate Planner

DATE: May 16, 2019

SUBJECT: PROCLAMATION RECOGNIZING POLLINATOR WEEK: JUNE 17-23, 2019

PURPOSE & RECOMMENDATION

To proclaim the week of June 17-23, 2019 as Pollinator week in the City of Seaside.

BACKGROUND

The City of Seaside became a BEE CITY Affiliate on April 4, 2019

FISCAL IMPACT

None.

ATTACHMENTS

1. Proclamation for National Pollinator Week
-

Reviewed for Submission to the
City Council by:

A handwritten signature in blue ink, appearing to be "Craig Malin", written over a horizontal line.

Craig Malin, City Manager

City of Seaside PROCLAMATION



Pollinator Week June 17-23, 2019

WHEREAS, twelve years ago the U.S. Senate's unanimous approval and designation of a week in June as "National Pollinator Week" marked a necessary step toward addressing the urgent issue of declining pollinator populations; and

WHEREAS, Pollinator Week has now grown into an international celebration of the valuable ecosystem services provided by bees, birds, butterflies, bats and beetles; and

WHEREAS, pollinator species such as thousands of species of bees are essential partners in producing much of our food supply; and

WHEREAS, pollinator species provide significant environmental benefits that are necessary for maintaining healthy, diverse urban and suburban ecosystems; and

WHEREAS, pollination plays a vital role for the trees and plants of our community, enhancing our quality of life, and creating recreational and economic development opportunities; and

WHEREAS, for decades the City of Seaside has managed urban landscapes and public lands that include many municipal parks and greenways, as well as wildlife habitats; and

WHEREAS, the City of Seaside provides recommendations to developers and residents regarding native landscaping to promote conservation stewardship, and will continue to develop information regarding the protection of pollinators and maintenance of their habitats in urban and suburban environments; and

WHEREAS, the City of Seaside became a BEE CITY USA Affiliate on April 4, 2019 and committed to increasing pollinator awareness and creating supporting habitats.

NOW THEREFORE, BE IT PROCLAIMED, that, I, The Honorable Ian Oglesby, Mayor of the City of Seaside, California, on behalf of the City Council do hereby proclaim June 17th - 23rd, 2019 as "**Pollinator Week**" in the City of Seaside, and I urge all citizens to celebrate Pollinator Week and to support efforts to enhance native habitats to support pollinators, and Further, I urge all citizens to plant native species that support critical pollinator species to promote the well-being of this and future generations.

Ian N. Oglesby, Mayor

May 16, 2019.





**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.D.

TO: City Council

FROM: Craig Malin, City Manager

BY: Mayor Ian Oglesby

DATE: May 16, 2019

**SUBJECT: PROCLAMATION RECOGNIZING THE MONTH OF MAY 2019 AS
"POPPY MONTH"**

PURPOSE & RECOMMENDATION

That the City proclaim the month of May 2019 as "Poppy Month" in the City of Seaside.

BACKGROUND

In the spring of 1919, amidst complete devastation, red poppies bloomed in abundance on the battlefields of France where so many of our men had fallen during World War I, and that a replica of this poppy has become the Memorial Flower of the American Legion Auxiliary for all wars.

The American Legion Auxiliary has pledged to remind Americans annually of this debt through the distribution of the Memorial Flower.

FISCAL IMPACT

There is no fiscal impact.

ATTACHMENTS

1. Poppy Days_2019
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

City of Seaside PROCLAMATION



Poppy Month May, 2019

WHEREAS, *America is the land of freedom, preserved and protected willingly and freely by citizen soldiers; and*

WHEREAS, *millions who have answered the call to arms have died on the field of battle protecting the rights and freedoms for which this Nation stands; and*

WHEREAS, *a Nation at peace must be reminded of the price of war and the debt owed to those people who have served and also died in war; and*

WHEREAS, *in the spring of 1919, amidst complete devastation, red poppies bloomed in abundance on the battlefields of France where so many of our men had fallen during World War I, and that a replica of this poppy has become the Memorial Flower of the American Legion Auxiliary for all wars; and*

WHEREAS, *the sacrifice of our soldier's lives are symbolized by the red poppy in the following manner: the red petals stand for the vast outpouring of their blood, the yellow and black center represent the mud and desolation of all battlefields, the green of the stem is symbolic of the forests, meadows and fields where generations of Americans have perished to make this land free, and the stem itself represents the courage and determination of our fallen warriors; and*

WHEREAS, *the American Legion Auxiliary has pledged to remind Americans annually of this debt through the distribution of the Memorial Flower.*

NOW THEREFORE, BE IT PROCLAIMED, *that I, The Honorable Ian N. Oglesby, Mayor of the City of Seaside, on behalf of the City Council, do hereby proclaim the month of May as "**Poppy Month**" in the City of Seaside and encourage all citizens to pay tribute to those who have made the ultimate sacrifice in the name of freedom by wearing the American Legion Auxiliary Memorial Poppy.*

Ian N. Oglesby, Mayor

May 16, 2019



CITY OF SEASIDE STAFF REPORT

Item No.: 8.E.

TO: City Council

FROM: Craig Malin, City Manager

BY: Rick Riedl, City Engineer
Misty Bradshaw, Associate Engineer

DATE: May 16, 2019

**SUBJECT: APPROVE THE TRAFFIC ADVISORY (TAC) COMMITTEE
RECOMMENDATIONS**

PURPOSE & RECOMMENDATION

Approve the Traffic Advisory Committee recommendations placing delineators (channelizers) in the centerline on Plumas Avenue at various locations between Noche Buena Street and Highland Street.

BACKGROUND

From 2012 through 2015 staff performed traffic studies and roadway assessments on Plumas Ave. Staff proposed various traffic calming measures to be considered for installation in phases. With direction from the Traffic Advisory Committee (TAC) and approval by City Council, the improvements were implemented by April of 2015. Improvements included installation of centerline striping for roadway narrowing, additional signage, and installation of speed cushions on Plumas Ave. midblock between Waring St. and Noche Buena St. and between Plumas Ln. and Highland St.

Staff received a request in March of 2016 for delineators (channelizers) to be placed in the centerline on Plumas Avenue at various locations. The request cites reckless driving, aggressive acceleration, speeding, running stop signs, crossing over painted lines, and driving on the wrong side of the road as safety concerns. The applicant is requesting channelizers be placed in the center of Plumas Avenue at the speed cushions and at the stop signs at Highland Street and Noche Buena Street. This request was discussed at the July 19, 2016 and August 16, 2016 TAC Meetings.

In review of the minutes of the July 19, 2016 TAC meeting, the TAC continued the item

and directed to return with locations and determine spacing requirements for placement bottle dots on Plumas Avenue in lieu of channelizers.

Following the July 19, 2016 TAC meeting the channelizers were placed on the centerline of Plumas Ave. and no further action was taken by TAC or staff to pursue the bottle dots placement.

STAFF ANALYSIS

Plumas Avenue Roadway Characteristics:

Plumas Avenue is classified as a collector street and runs east west near the southern border of Seaside. The street width varies between 20 feet wide (from Highland Street to Mescal Street) to 40 feet wide (Wheeler Street to Tweed Avenue). Between Waring Street and Highland, the majority of Plumas Avenue is 32 feet wide. There is approximately 400 feet of Plumas Avenue's right of way measuring 40 feet wide beginning from Waring Street west towards Noche Buena. The eastbound travel lane remains constant at approximately 12 feet wide. The westbound travel lane varies in width, but generally maintains the width of approximately 12 feet. Parking is permitted on Plumas along the north side of the street and prohibited on the south side of the street. The posted speed limit is 25 miles per hour (mph). There are three speed limit signs on Plumas Avenue with additional signage indicating "Traffic Complaint Area, Speed Limits Strictly Enforced." A painted median was placed reducing the westbound lane width to 12 feet west and east of the intersection of Waring Street and Plumas Avenue. Plumas Avenue, from Noche Buena to Highland Street, has two sets of speed cushions: one between Noche Buena and Waring and the other between Waring and Highland. Del Rey Woods Elementary School is located on the northwest corner of the intersection of Noche Buena Street and Plumas Avenue. Along the south side of Plumas Avenue, there is a tract of land approximately 35 feet wide owned by PG&E for their high voltage power lines. This tract of land has become an informal recreation trail.

Channelizers are flexible retroreflective devices for installation within the roadway to discourage road users from crossing a line or area of the roadway. Channelizers are intended to provide additional guidance and/or restriction to traffic by supplementing pavement markings and delineation.

Speed Surveys were performed on Plumas Ave. Speed surveys are performed at off peak hours per the requirements set for by the California Manual for Setting Speed Limits, prepared by the California Department of Transportation. Three separate off peak surveys were performed by trained City Staff with a Falcon HR Radar Gun and results were manually recorded, and the results are summarized in the table below. In addition, a Peak Weekend Survey was conducted for more well-rounded observations and comparison. The location of the survey was performed where the vehicles were able to reach true free flow speeds, with minimal influence of intersections, stop signs, speed humps, or high turning or cross movements.

OFF PEAK SPEED SURVEY		
<u>Date</u>	<u>85th Percentile</u>	<u>10 mph pace speed</u>
1/9/2019	24 mph	18-27 mph
1/16/2019	26 mph	18-27 mph
1/25/2019	25 mph	17-26 mph
PEAK WEEKEND SPEED SURVEY		
2/23/2019	22 mph	15-24 mph

Results display an average of 25 mph 85th percentile speed for the Off Peak Survey, with a 10 mph pace speed average of 17 – 26 mph. Ideal roadway conditions will have the 85th percentile within 5 mph of the posted speed limit, and the posted speed limit will be within the 10 mph pace speed. The data indicates there are no speeding concerns on this roadway to address.

A collision report was pulled for the vicinity of the project area and there were no reported collisions from July 2016 through March 1, 2019.

The Traffic Advisory Committee recommends placement of delineators (channelizers) at the locations shown on Attachment 1.

ENVIRONMENTAL COMPLIANCE

Per Title 14 of the California Code of Regulations, Chapter 3, "Guidelines for Implementation of California Environmental Quality Act (CEQA)," Article 19, "Categorical Exemptions," Section 15301.c, "Existing Facilities" the proposed project is categorically exempt.

Evidence:

A Class 1 Categorical Exemption is applicable to the proposed installation of channelizers at the locations noted in Attachment 1 in that the improvements will consist of changes that will be negligible and/or will not result in an expansion of use beyond that existing.

FISCAL IMPACT

The fiscal impact associated with this item includes initial installation of three of the six proposed channelizers for a total of \$720 from the Streets Maintenance Fund. In addition, an estimated yearly maintenance will be required to maintain the channelizers

in place for approximately \$240 a year from the Streets Maintenance Fund.

ATTACHMENTS

1. Plumas Channelizer
 2. Public Comment TAC 2
 3. Public Comment TAC
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

Lesley Milton - Fwd: Plumas Ave needs 9 Delineators

From: Craig Malin
To: City Council; Department Heads
Date: 5/9/2019 4:49 PM
Subject: Fwd: Plumas Ave needs 9 Delineators

fyi

>>> jeffhaney-consultant <jeffhaney-consultant@prodigy.net> 5/9/2019 4:46 PM >>>

City of Seaside, please consider one additional delineator on Plumas Ave, in front of 1363 & 1371 Plumas. This is a simple and easy fix, and will address this safety concern on this section of Plumas Ave.

There are currently eight delineators on Plumas ave, this additional delineator will bring the number to nine.

We have years of videos of reckless vehicles driving over the double yellow lines, trying to avoid the speed cushions. This one additional delineator will stop this reckless and unsafe driving.

The current delineators that are being used are not designed to be on a radius of a corner, this is because of their fragile plastic parts. Vehicles and big trucks etc, can damage the current delineators if they get ran over repeatedly. Monterey Peninsula Engineering damaged the delineator at Plumas and Highland, they replaced it with a similar type of delineator that we donated to the City of Seaside that does not have fragile plastic parts. That delineator has been in position for over 7 months without any problems. The new and improved delineators are being used in major cities across the country and around the world.

We donated three delineators in 2018 that are designed to withstand the abuse of vehicles running them over repeatedly. We will donate the remainder as needed for repair and replacement.

Plumas Ave East of Waring street had 4 or 5 delineators installed in the intersection 20 years ago, that were similar to the new style that were donated. They were finally damaged after many years of use, but were never replaced. If the city engineers at the time felt like it was a necessary safety concern, we would have to say it's still a concern now with the amount of pedestrian versus vehicle fatalities across the country, being at an all time high.

Plumas Ave borders the PG&E right of way trail, which is used as a recreation trail for all ages of people and their pets walking, running, bicycling etc.

Please consider a total of 9 delineators for our neighborhood safety.

Thank you,
 Jeff and neighbors,
[702-591-9949](tel:702-591-9949)

TRAFFIC Advisory Committee
11-14-19

This letter is to confirm that you
have my approval to place the
DELINERS IN THE CENTER LINE
ON PLUMAS AVE AND AT VARIOUS
LOCATIONS BETWEEN KOCH BUENA
AND HIGHLAND ST.

THEY ARE NEEDED BECAUSE OF THE
DRIVING HABITS OF UNSAFE MOTORISTS.

WE NEED ANY AND ALL THE PROTECTION
YOU CAN PROVIDE TO OUR STREET AND
RESIDENTS. CARS SPEED DOWN THE
MIDDLE OF THE ROAD AND FLY OVER THE
SPEED BUMPS. A LOT OF MOTORISTS
HAVE NO RESPECT FOR SAFE DRIVING

OR OUR RESIDENTIAL NEIGHBORHOOD.
I CHALLENGED ONE DRIVER WHY
THEY WERE SPEEDING OVER THE BUMPS

THEIR QUOTE WAS "I DIDN'T DO IT MY CAR DID"
THERE IS A CRITICAL PERIOD OF
UNSAFE DRIVERS ON OUR STREET AT THE
START UP AND CLOSE OF SCHOOL DAY AND

THE MORMON CHURCH SUNDAY SERVICES.
I APPRECIATE YOUR ATTENTION TO THIS MATTER.
Dorena Harvey
1375 PLUMAS AVE SEASIDE CA
Edwina Thomson

Lesley Milton - Fwd: Plumas Ave needs 9 Delineators

From: Craig Malin
To: City Council; Department Heads
Date: 5/9/2019 4:49 PM
Subject: Fwd: Plumas Ave needs 9 Delineators

fyi

>>> jeffhaney-consultant <jeffhaney-consultant@prodigy.net> 5/9/2019 4:46 PM >>>

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The current delineators that are being used are not designed to be on a radius of a corner, this is because of their fragile plastic parts. Vehicles and big trucks etc, can damage the current delineators if they get ran over repeatedly. Monterey Peninsula Engineering damaged the delineator at Plumas and Highland, they replaced it with a similar type of delineator that we donated to the City of Seaside that does not have fragile plastic parts. That delineator has been in position for over 7 months without any problems. The new and improved delineators are being used in major cities across the country and around the world.

We donated three delineators in 2018 that are designed to withstand the abuse of vehicles running them over repeatedly. We will donate the remainder as needed for repair and replacement.

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Plumas Ave borders the PG&E right of way trail, which is used as a recreation trail for all ages of people and their pets walking, running, bicycling etc.

Please consider a total of 9 delineators for our neighborhood safety.

Thank you,
 Jeff and neighbors,
[702-591-9949](tel:702-591-9949)



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.F.

TO: City Council

FROM: Craig Malin, City Manager

BY: Lesley Milton-Rerig, Public Affairs Officer/City Clerk

DATE: May 16, 2019

SUBJECT: ADOPT RESOLUTION CANCELING THE JULY 4, 2019 REGULAR COUNCIL MEETING

PURPOSE & RECOMMENDATION

Adopt resolution canceling the meeting as it falls on Independence Day.

BACKGROUND

The City Council meets regularly on the first and third Thursdays of each month. Since the first meeting in July would fall on July 4th, being that it is the Federal Holiday, it is recommended that the meeting be formally canceled.

FISCAL IMPACT

None.

ATTACHMENTS

1. reso cancellation
-

Reviewed for Submission to the
City Council by:

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke.

Craig Malin, City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

**APPROVING THE CANCELLATION OF THE CITY COUNCIL REGULAR MEETING
OF JULY 4, 2019**

WHEREAS, The City Council meets regularly on the first and third Thursdays of each month.

WHEREAS, Since the first meeting in July would fall on July 4th, being that it is the Federal Holiday, it is recommended that the meeting be formally canceled.

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Seaside hereby approves the cancellation of the meetings scheduled for July 4, 2019.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside duly held on the 16th day of May 2019 by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

Ian Olgesby, Mayor

ATTEST:

Lesley Milton-Rerig, City Clerk



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.G.

TO: City Council

FROM: Craig Malin, City Manager

BY: Lesley Milton-Rerig, Public Affairs Officer/City Clerk

DATE: May 16, 2019

SUBJECT: ADOPT A RESOLUTION IN SUPPORT OF THE 2020 CENSUS

PURPOSE & RECOMMENDATION

Adopt a resolution in support of the Monterey County 2020 Census Complete County Committee and the 2020 Census Peninsula Action Team.

BACKGROUND

The 2020 United States Census will take place on April 1st, 2020. This Census (decennial) is undertaken every 10 years for the purpose of counting the people living in the United States and to record basic demographic information such as age, race, economic characteristics, etc. The Census is also used to determine the number of seats each State is allotted in the United States House of Representatives as well as a means to determine how to distribute billions in federal funding to States and local communities.

To ensure coordinated efforts, increased funding for these efforts and an accurate and complete count of California residents, the State of California has initiated a statewide effort entitled "CA Census 2020." As part of this statewide effort, ten regions were created across California to coordinate the 2020 CA Census efforts and to disperse resources to counties to ensure a complete count of the residents living in those jurisdictions. The City of Seaside is located in Region 5 (Central Coast), which includes Santa Cruz, San Benito, Monterey, San Luis Obispo, Santa Barbara, and Ventura Counties.

City staff and the Mayor have been participating in Monterey County's 2020 Census Complete Count Committee, which was initiated last year to ensure an accurate count of all County residents. Additionally, the City of Seaside is in process of forming a 2020

Census Peninsula Action Team (a subcommittee of the County's Complete Committee) earlier this year, to further focus on developing specific outreach strategies and efforts to effectively reach the Peninsula's residents (especially hard-to-count populations). This Action Team will be composed of City staff and representatives from each of the peninsula cities, community-based organizations, school districts, and other interested parties. The Team has their inaugural meeting on May 17th and will continue to meet once a month (at a minimum) over the course of the next year and half, with additional meetings scheduled, as needed to ensure a complete and accurate count of the City's residents.

The City's and County's 2020 Census outreach and media strategies will focus on educating, motivating, and informing residents as to why participation in the Census benefits them and the communities where they live directly. It will also focus on assuring residents that the information that they provide to the Census is confidential and protected under Title 13 of the U.S. Constitutional Code. Countywide outreach strategies discussed as part of Monterey County's 2020 Census Complete Count Committee include but are not limited to regionally and culturally relevant media strategies, Census Ambassador centers, hosting events, and working with trusted voices/organizations located throughout Monterey County. Additionally, the City's 2020 Peninsula Action Team will be utilizing City GIS data to identify areas with hard-to-count populations, partnering with community organizations, and implementing other outreach and media strategies specifically focused on reaching residents (especially the hard-to-count populations).

Reaching the City's hard-to-count populations will be critically important component of the outreach efforts. The U.S. Census Bureau estimates that for every five uncounted residents, \$100,000 in local funding is lost over ten years. Hard-to-count populations includes individuals who have been excluded or "undercounted" in the prior Census for various reasons such as fear of government, highly mobile populations, languages issues, etc. These individuals typically include children, immigrants, homeless, renters, and others.

Staff recommends approving a Resolution supporting the City's participation in Monterey County's 2020 Census Complete Count Committee; and the 2020 Census Peninsula Action Team (a subcommittee of the County's Complete Count Committee).

FISCAL IMPACT

There is no additional impact to the General Fund at this time. It is anticipated that the County of Monterey will receive approximately \$400,000 and is seeking other funding (from the State of California) to jumpstart public outreach efforts to facilitate a complete count of the residents who live in the County. At this time, it is unknown how

much of funding that is ultimately received from the State will be actually be allotted to and available to fund outreach efforts and activities specifically in the City of Seaside.

ATTACHMENTS

1. Draft Resolution

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

RESOLUTION NO. 19-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

SUPPORTING THE MONTEREY COUNTY 2020 CENSUS COMPLETE COUNT COMMITTEE AND THE 2020 CENSUS PENINSULA ACTION TEAM LED BY THE CITY OF SEASIDE

WHEREAS, the U.S. Census Bureau is required by Article I, Section 2 of the U.S. Constitution to conduct an accurate count of the nation's population every ten years; and

WHEREAS, a significant amount of outreach is required in order to achieve full participation in the 2020 U.S. Census, especially in Salinas which has 38.5 percent (59,392) of Monterey County's Hard-to-Count population; and

WHEREAS, federal and state funding is allocated to communities and decisions are made on matters of national and local importance based, in part, on census data; and

WHEREAS, information from the 2020 Census is a vital tool for planning and land use decisions, efforts to increase affordable housing, and economic development and increased employment; and

WHEREAS, the information collected by the U.S. Census Bureau is encrypted and confidential and protected by law under Title 13 of the U.S. Code; and

WHEREAS, Monterey County's Complete Count Committee for the 2020 U.S. Census is eligible to receive approximately \$400,000 from the California Complete Count Census 2020 Office, based on population and the California Hard-to-Count Index created by the California Department of Finance, Demographic Research Unit and modeled on the U.S. Census Bureau's Hard-to-Count Score of past censuses; and

WHEREAS, Monterey County has formed a Complete Count Committee which can bring together a cross section of countywide community members who will utilize their local knowledge and expertise to reach out to all county residents; and

WHEREAS, the City of Seaside, in partnership with and a sub-committee of the Monterey County Complete Count Committee, is forming and will lead a 2020 Census Peninsula Action Team that will focus on outreach strategies specific to the Monterey Peninsula (with special focus on its Hard-to-Count populations).

NOW, THEREFORE, BE IT RESOLVED that the Seaside City Council supports the Monterey County Census Complete Count Committee and the 2020 Census Peninsula Action Teams' efforts to assure a complete count in Seaside, the Peninsula, and the entire County.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside duly held on the 18th day of May 2019 by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

Ian Oglesby, Mayor

ATTEST:

Lesley Milton-Rerig, City Clerk



CITY OF SEASIDE STAFF REPORT

Item No.: 8.H.

TO: City Council

FROM: Craig Malin, City Manager

BY: Brian Dempsey, Fire Chief

DATE: May 16, 2019

SUBJECT: ADOPT A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE APPROVING THE 2019 FIREWORKS SURCHARGE PERCENTAGE.

PURPOSE & RECOMMENDATION

Approve resolution for the proposed 2019 Fireworks Surcharge of seven percent as outlined in the City of Seaside Municipal Code Chapter 8.32 relating to fireworks.

BACKGROUND

The City of Seaside Fireworks Ordinance is found in the Seaside, California, Code of Ordinances, Title 8, Health and Safety Code. Chapter 8.32 Section 8.32.140 Police and Fire Department Illegal Fireworks Operation Plan and After Action Report require the Police and Fire Departments to present to City Council an Operations Plan for the thirty day period surrounding the 4th of July. Also Section 8.32.150 allows the City to assess a surcharge of not more than 7% of the gross sales of fireworks sold in the City that year. The surcharge is intended to raise sufficient funds for the City to pay for the cost of enforcement of the provisions of Chapter 8.32, including extra personnel time, illegal fireworks disposal and clean-up of the fireworks trash and debris left behind each year.

OPERATIONS PLAN RELATED COSTS

Police Department	\$26,000
Fire Department	\$2,596
Public Works	\$9,781
Illegal Fireworks Disposal	\$3,795
Total	\$42,172

FISCAL IMPACT

The City may impose an up to a 7% surcharge of the gross sales of fireworks for that year. The surcharge estimates will be based on the actual 2018 retail sales figures of \$227,445.69.

1%	\$2,274.46
2%	\$4,548.92
3%	\$6,823.38
4%	\$9,097.84
5%	\$11,372.30
6%	\$13,646.76
7%	\$15,921.22

	Retail	Surcharge
2018	\$227,445.69	\$15,917.91
2017	\$245,139.04	\$17,159.85
2016	\$252,807.98	\$18,128.59
2015	\$236,056.96	\$9,442.34

ATTACHMENTS

1. Resolution
2. Fireworks Ordinance Sections 8.32.140 and 8.32.150

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

RESOLUTION NO. 19-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE
APPROVING THE 2019 FIREWORKS SURCHARGE PERCENTAGE**

WHEREAS, The City of Seaside Fireworks Ordinance is found in the Seaside, California, Code of Ordinances, Title 8, Health and Safety Code, Chapter 8.32; and,

WHEREAS, Section 8.32.140 Police and Fire Department Illegal Fireworks Operation Plan and After Action Report require the Police and Fire Departments to present to City Council an Operations Plan for the thirty day period surrounding the 4th of July; and,

WHEREAS, the Police and Fire Operations Plan was presented at the May 16, 2019 City Council meeting; and,

WHEREAS, Section 8.32.150 allows the City to assess a surcharge of not more than 7% of the gross sales of fireworks sold in the City that year;

WHEREAS, the surcharge is intended to raise sufficient funds for the City to pay for the cost of enforcement of the provisions of Chapter 8.32, including extra personnel time and clean-up of the fireworks trash and debris left behind each year.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Seaside hereby approves the proposed Police, Fire and Public Works Operations Plan and Surcharge of seven percent for 2019.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside duly held on the 16th day of May, 2019, by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:

Ian N. Oglesby, Mayor

ATTEST:

Lesley Milton, City Clerk

(g) Each fireworks stand must post its City of Seaside permit, its temporary sales tax permit, and its state fire marshal retail sales permit and proof of their required insurance in a prominent place inside the fireworks stand.

(h) All unsold stock of fireworks held by the permittee after 10:00 p.m on July 5 shall be immediately stored in the container referenced in Section 8.32.110(f) above and picked up by the fireworks wholesaler within 72 hours thereafter.

8.32.120 Revocation of permit.

(a) The city fire chief or his/her designee or the city fire marshal or his/her designee may revoke, immediately and without notice or hearing, the permit of any permittee who violates any provision of this chapter. In the event of any such revocation the permittee must immediately cease operations and shall no longer display for sale or sell any fireworks. Any permittee whose permit has been revoked shall be prohibited from applying for or from receiving a permit under this chapter for a period of two years from the date of revocation.

(b) Any revocation made pursuant to this section may be appealed by the permittee to the city manager on the next business day following such revocation. The city's fire chief and/or fire marshal or his/her designee shall provide the city manager with written notice of the revocation, including the name of the permittee and a brief statement on the grounds for revocation. The city manager shall consider the appeal at his/her earliest convenience and may, in his/her sole discretion, meet with the permittee to review the revocation and may, in his/her discretion, support or overturn the revocation. The city manager's decision shall be final and dispositive of the matter. In the event the city manager overturns the revocation the permittee may immediately operations pursuant to the originally issued permit and shall remain eligible for participation in the next year's application selection process.

8.32.130 Seizure of Fireworks.

The fire chief or the fire marshal may seize, take, remove, or cause to be removed, at the expense of the permittee or owner thereof, all stocks of fireworks displayed or available for sale, stored, or held in violation of this chapter.

8.32.140 POLICE AND FIRE DEPARTMENT ILLEGAL FIREWORKS OPERATION PLAN AND AFTER ACTION REPORT.

(a) On or before the first regular City Council meeting in May of every year, both the City's police and fire departments must present to the City Council an Operation Plan for the thirty day period surrounding the 4th of July (June 17 through July 16) for that year. Said operation plan should include, but not be limited to, the following information:

1. Identification of areas within the City where illegal fireworks were a problem in the previous year;
2. A general explanation of the supplemental fire and law enforcement personnel deployed within the City;
3. A report on the additional apparatus and personnel who'll be on duty for the period of June 17th through July 16th of that year.
4. Recommendations on and discussion of what, if any, dedicated illegal fireworks enforcement patrols there should be for that year and all other relevant information and statistics deemed necessary by the City Council.
5. A detailed discussion of the costs that will be incurred by the City that year to be delivered in the operation plan; what, if any, of these costs will be covered by existing fees levied on the permittees, and unexpended surcharge revenue from prior years.
6. A proposed recommendation for a surcharge resolution establishing the surcharge amount to be levied that year on each retail sale of Safe and Sane Fireworks in an amount not to exceed 7%.

(b) On or about September 1 of that same year, both police and fire departments must report back to the City Council with an After Action Report. That report should include, but is not limited to:

1. An evaluation of the effectiveness of that department's Operation Plan for that year including a listing of any significant fireworks-related incidents, both "Dangerous Fireworks" and "Safe and Sane Fireworks";
2. Relevant incident statistics for the period of June 17th through July 16th, and identification of fireworks related incidents.
3. A report on how many calls there were regarding suspected "Dangerous Fireworks", how many of those calls either of the departments responded to, how many of those calls resulted in seizures and/or administrative fine citations.

8.32.150 Fireworks Surcharge.

(a) All nonprofit retail booth locations shall assess a surcharge, on all retail sales of Safe and Sane Fireworks that occur in the City. The assessment shall be paid by the permittee upon presentment of an invoice by the City. The surcharge will be assessed to the public for each retail sale and is up and above the retail price of the fireworks and will not be deducted from the permittees net profit.

(b) The assessment is intended to raise sufficient funds for the City to help pay for the cost of enforcement; inspection of stands; public education and awareness campaigns; enforcing the provisions of this Chapter, including extra personnel time, and cleanup of the fireworks trash and debris left behind each year. "Extra personnel time" shall be defined as employee or contracted employee time that the City would not otherwise incur but for the sale and use of Safe and Sane Fireworks. By the first regular City Council meeting in May of each year, the City Manager must submit to the City Council for its approval, a proposed budget for police, fire, administrative services and public works departments. The exact amount of the assessment shall be determined each year by no later than the second regular City Council meeting in May of that year and notice sent to each of the permittees. In no event shall the assessment be more than 7% of the gross sales of the fireworks sold in the City that year. The fireworks wholesaler with whom each permittee has contracted shall be responsible for collecting the estimated assessment from their nonprofit organizations, advising the City of the amount of each estimated assessment collected, and holding the funds in trust pending notification by the City of the exact amount owed. After the City determines each permittee's share of the total annual sales volume, each permittee shall be billed for its share of the total assessment. A duplicate copy of each permittee's invoice will be sent to its fireworks wholesaler. Payment of the assessment by each permittee shall be due to the City 30 days after the issuance of the invoice. The expenses submitted are subject to review, audit and dispute by any permittee who has to pay the assessment that year. Any dispute of the assessment must be filed within 15 days of its receipt or any right to contest it will be deemed waived. The City Council is the final arbiter of any disputed assessment. Any excess (i.e., difference between amount of surcharge collected by each group and the amount of their individual assessment) shall remain the property of that permittee.

(c) Failure by any permittee to pay the amount assessed to it by the City shall be cause to bar the permittee from selling Safe and Sane Fireworks in the future, until the assessment is paid in full. Furthermore, if the assessment is not paid by the due date, it shall be subject to a 10% penalty for each month or portion of a month that it is late.

8.32.160 Wholesale storage of safe and sane fireworks.

(a) Wholesale storage of California State Fire Marshal listed safe and sane fireworks may be allowed under the provisions of this section and chapter. All wholesale storage facilities or buildings shall conform to the applicable building and fire codes of the City of Seaside.

(b) An annual storage permit shall be required from the Seaside Fire Department for the wholesale storage of fireworks. The annual storage permit shall be annually renewable, subject to inspection clearance by the Seaside Fire Department. The fee for such permit shall be established by resolution of the city council.



CITY OF SEASIDE STAFF REPORT

Item No.: 8.I.

TO: City Council

FROM: Craig Malin, City Manager

BY: Dan Meewis, Recreation Superintendent

DATE: May 16, 2019

**SUBJECT: ADOPT A RESOLUTION AUTHORIZING THE CITY OF SEASIDE
AND SEASIDE RAIDERS YOUTH FOOTBALL MEMORANDUM OF
UNDERSTANDING**

PURPOSE & RECOMMENDATION

Adopt the resolution and authorize execution of the Memorandum of Understanding to memorialize the partnership between the City of Seaside and Seaside Raiders Youth Football program.

BACKGROUND

The City of Seaside and Seaside Raiders Youth Football have worked together in providing facilities for practices, board meetings, and the end of the year banquet. The attached memorandum of Understanding establishes practices to continue this partnership with the addition of having a City liaison to coordinate field use with MPUSD under the Memorandum of Understanding between the City and MPUSD.

Staff has coordinated with the MPUSD & Seaside Raiders.

FISCAL IMPACT

The fiscal impact for this item is in two parts. There is a yearly cost associated with the fees for home games at an MPUSD facility, and there is a one time cost for an additional storage unit that will be installed at Cutino park.

Part 1 - Yearly cost for using MPUSD facilities

\$25.00 per hour for 4 hours a game for a total of \$100.00

Restroom Fee per game \$100.00

Score Board per game \$100.00
Snack Shack use per game \$100.00

Total per game \$400.00

The Raiders play 5 homes games per season not including playoffs which could be an extra 2 games per season. The total yearly impact for home games would be \$2000 - \$2800 per year.

Part 2 - One time cost for an additional Conex Box for storage at Cutino park.

10'x8' with cargo doors \$3,350.00
Add 8ft roll up door \$895.00
Add Roll up door lock box \$165.00
Transportation Delivery \$600.00

Total \$5010.00 + tax

This is an estimated total for the storage unit based on the cost of the one that is currently at Cutino and is \$5010.00 which does not include tax. Tax is estimated to be \$475.00.

ATTACHMENTS

1. Draft -Resolution 2019 Raiders
2. Draft - City and Raiders agreement1
3. Draft Seaside Raiders_Facility_USE AGREEMENT

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

**APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY
AND SEASIDE RAIDERS YOUTH FOOTBALL.**

WHEREAS, the City desires to support independent organizations providing services beneficial to the community, and through the Recreation Department, has provided assistance to SRYF with facility use for practices and meetings; and

WHEREAS, over the past 20 years, the City and SRYF have enjoyed a positive annual working relationship, and SRYF has participated in the upkeep of Cutino Park during their season; and

WHEREAS, SRYF wishes to continue to provide non-profit services to Seaside youth, not otherwise offered or duplicated by the City of Seaside; and

WHEREAS, SRYF wishes to use various facilities maintained by the City of Seaside's Recreation and Public Works departments and MPUSD for that purpose on a priority basis; and

WHEREAS, the City wishes to continue to work with SRYF;

NOW THEREFORE, BE IT RESOLVED, in accordance with the City's policies and the Agreement with MPUSD, the City and SRYF enter into this agreement.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside duly held on the 17th day of January by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

Ian Olgesby, Mayor

ATTEST:

Lesley Milton, City Clerk

AGREEMENT BETWEEN CITY OF SEASIDE AND SEASIDE RAIDERS YOUTH FOOTBALL

THIS AGREEMENT dated (.....) is by and between the CITY OF SEASIDE, a municipal corporation ("City"), and the Seaside Raiders Youth Football ("SRYF"), a non-profit youth athletic organization.

1. Obligations of the City

a. City shall provide SRYF first priority reservation, after City scheduled activities, and MPUSD scheduled activities and consistent with City policy on facility use, of the athletic field at Cutino Park for SRYF's pre-season and regular season use from July 20, 2019, through November 27, 2019, and annually thereafter until this Agreement is terminated as provided herein. The City, through its designated representative, will act as liaison with access to facilities available under the City's MOU with MPUSD to reserve those MPUSD facilities requested for the purposes of SRYF activities based on availability and the conditions outlined in this agreement and consistent with the terms and conditions of the MOU with MPUSD.

b. City and MPUSD facilities will only be used for the purpose of SRYF football season practices and games, league meetings league functions, including tournament(s) not to exceed 3 days in length.

c. City shall make the priority reservations for SRYF use of the Cutino Park athletic field and MPUSD athletic fields by June 1st of each year for that year's permits, and shall notify SRYF of their availability by June 15th of each year. Any changes in the availability of the facilities compared to prior year will be noted by the City and MPUSD and shared with SRYF.

d. City shall continue to provide SRYF with use of a storage shed at Cutino Park (approximately 8' x 8'). The City will evaluate City-owned and controlled structures to determine if there are other locations where SRYF may place storage containers with prior written approval of the City.

Such exclusive use of the storage shed shall be continuous during 12 months of any year, subject to change or revocation based upon the needs of the City. The City, in its proprietary or regulatory capacity, shall have the right to inspect the areas reserved for SRYF use at any time, upon reasonable notice prior to entering and inspecting those areas. City's Recreation Director shall be provided with a key to the above storage area reserved for SRYF's exclusive use for this purpose. Any changes in the availability of storage areas compared to the prior year will be noted by the

City and shared with SRYF. The use of the storage shed is at SRYF's own risk.

e. City and SRYF shall meet annually each June for the purpose of distributing initial permits discussing topics relevant to the City and SRYF's associated activities.

f. City shall provide an annual training session to SRYF representatives regarding proper care and maintenance of athletic fields. All City and MPUSD facilities will have a walk-thru inspection, with representatives of the City, MPUSD and SRYF present, and any repairs or deficiencies will be noted in writing.

g. City shall notify SRYF no less than 24-hours in advance if permitted facilities are, or will need to be, closed for any reason during the season, and attempt to accommodate SRYF if possible and provide alternate venues if available.

h. City shall list SRYF's contact information in the Recreation Department's office and support the promotion of its sanctioned programs and activities.

i. SRYF agrees to promote and support City and MPUSD sanctioned programs and activities throughout its organization.

j. City shall provide SRYF with up to two keys to each of the facilities that they reserved. No keys will be issued for MPUSD facilities. Within two weeks of the cessation of this agreement, all keys must be returned to the City and the storage areas emptied of all SRYF property, with a final walk-thru inspection of all facilities used by SRYF during the season to be conducted by representatives of the City and SRYF. With the exclusion of those storage areas identified in (d) above.

2. Obligations of SRYF

a. SRYF shall provide all activities and programs associated with the planning, organizing, scheduling, and hosting of league games, practices, and associated activities at no cost to the City.

b. SRYF shall comply with all City and MPUSD facility use policies and provide maintenance in accordance with the Seaside Recreation Department's use guidelines and this agreement. The restrooms at Cutino Park will be made available for use during SRYF daily practices, and SRYF will ensure that the bathrooms are returned in the condition that they were

received that day. If there are issues with the restrooms SRYF will immediately notify City staff.

c. SRYF will provide the designated City liaison with the specific times and dates when reserved facilities are requested no later than May 1st each year. SRYF shall provide written notice to the City as early as possible each year of the release of any permitted athletic field or to request additional permitted athletic fields.

d. Any athletic field time that is requested after June 1st deadline will be subject to all regular facility reservation policies including: participant waiver, assumption of risk and hold harmless agreements approved in advanced by the City; and damage deposits for facilities as determined by the Recreation Department.

e. SRYF shall pay to CITY for the use of the premises as established in the City of Seaside Fee Schedule, which may be revised during the course of this agreement by action of the City Council. If the fee is adjusted during the course of this agreement, the new fee approved by the City Council will be applied. SRYF shall additionally pay for all field use fees resulting for field use at MPUSD. In lieu of these fees, the SRYF may provide materials and labor with approval from the CITY. These "in lieu" fees shall include but not be limited to at least the following:

- Preparation of fields before each use including striping (paint included).
- Pickup and removal of all trash and debris from the City Facility after each use.
- Rake, sweep or blow off the spectator areas from the CITY facility after each use and dispose of all debris to include sunflower seeds, peanut shells etc.
- Provide a minimum of 5 (five) adult volunteers to assist the City during both the 4th of July Red White and Blues event on July 4 of each year, and the Winter Wonderland and Tree Lighting which occurs on the second Friday of December each year.

The in lieu fee policy shall be reviewed annually and the City and MPUSD reserve the right in future years to require SRYF to pay fees for use of athletic fields and/or other facilities.

f. SRYF is specifically prohibited from re-permitting any facility provided within this agreement to any other organization without first obtaining written approval of the City or MPUSD.

g. Permits that are not cancelled according to City of Seaside and MPUSD reservation policies will be subject to payment.

h. SRYF designates the City's Recreation Director, or his / her designee, as the City liaison between SRYF and MPUSD for purpose of access and permitting of MPUSD facilities as noted in the MPUSD MOU with the City.

i. SRYF shall leave all facilities used in the same or better condition than they were found on a daily use basis and shall never use facilities when the City or MPUSD designates them as "Closed."

j. SRYF shall repair, replace or pay for damage to the City or MPUSD facilities or equipment furnished by City of MPUSD, at the discretion of the City or MPUSD, if damage occurred from use by SRYF.

k. SRYF shall make special requests in writing, including but not limited to: request for additional storage space, improvements and/or modifications of any kind to the City and/or MPUSD, this includes the placement of banners or signs advertising SRYF's activities.

l. During the term of this agreement, SRYF shall not make and additions or alterations to improvements or facilities, including landscaping, without the prior written consent of the City and or MPUSD. Moreover, upon receiving consent to make an addition or alteration to improvements or facilities, SRYF shall not commence work on the construction or installation of such added or altered improvements until plans and specifications for same have been submitted to and approved by the City and/or MPUSD.

m. Upon termination of this Agreement, all additions or alterations to the improvements or facilities made by SRYF shall become the property of the City and/or MPUSD, without payment of any compensation or other consideration therefore provided. However, that upon termination of this Agreement, unless provided for in its approval, City and/or MPUSD shall have the option to require SRYF to remove any or all added improvements or restore any altered improvement to the same condition as it was at the commencement of the term of this Agreement, all at SRYF's sole cost and expense.

n. SRYF shall be responsible for storage, care, custody or control of its own equipment, materials and furnishings.

o. SRYF shall submit a copy of the letter from the Internal Revenue Service determining their tax exempt status under 501 c (3) of the Internal Revenue Code and a copy of the letter from the State of California Franchise

Tax Board determining tax exempt status under Section 23710 (d) Revenue and Taxation Code prior to execution of this agreement.

p. SRYF shall maintain a membership of at least 75% Seaside residents. These membership requirements shall pertain to all teams within SRYF, as well as the Board of Directors. Teams containing players primarily from a city other than Seaside shall be explicitly excluded from this Agreement. SRYF shall provide the City's Recreation Department with a participant roster each season, noting the residency of every participant and board member, no later than August 1st each year. If the percentage of Seaside residents in the membership is expected to fall below 75%, a special request for an exception to this requirement must be submitted in writing to the City for approval. For the purposes of definition of the above, any student residing outside the city but attending a MPUSD school will be considered a resident as it applies to this agreement.

q. SRYF shall utilize concession facilities only for the purpose of sale of concessions, food, beverages or merchandise and only during times SRYF is permitted use of facilities or athletic fields, with the exception that SRYF may store approved portable concession facilities on site two weeks prior, during, and two weeks after, each season of play. A permit from the Monterey County Health Department shall be obtained in every case concerning the sale by concessionaires or SRYF of food or beverages. As of December 1st each year, the facilities must be cleaned and all of SRYF's possessions shall be removed.

r. SRYF shall reimburse cost to the City to replace lost or missing keys and to re-key facilities under the use of SRYF when necessary for security purposes. It is also prohibited for SRYF to have keys copied without the written consent from the City.

s. SRYF must maintain a program by which players that are unable to meet registration fee requirement are entitled to participate during any season of play. No child will be turned away for the inability to pay. SRYF may determine the eligibility and reimbursement requirements for said program, in accordance with SRYF procedures and guidelines.

t. SRYF shall ensure that all coaches and volunteers are certified by NYSCA (NAYS) or a comparable national certification program, and conduct Megan's Law and criminal background checks on all coaches and volunteers. The extent of the criminal background checks shall be determined according to SRYF procedures and guidelines.

u. SRYF will supply a copy of all registration documents and signed liability waiver for all participants of the program including the Flag Football and Cheerleading programs. These documents will be kept by the City in accordance with the City's record retention policy.

3. Conflicts of Interest

No officer or employee of the City shall have any interest, direct or indirect, in this Agreement or in the proceeds thereof. During the term of this Agreement members of SRYF board of directors shall not accept employment or an obligation which is inconsistent or incompatible with SRYF's obligations under this Agreement.

4. Compliance of Laws

a. SRYF shall not discriminate against any employee or applicant for employment because of race, religion, creed, color, gender, age (persons 40 years or older), disability, national origin, or any other basis to the extent prohibited by federal, state or local law. SRYF will not discriminate against any participant based on race, color, sex, origin, disability, or economic status and must conduct background investigations on all coaches, volunteers, and board members, according to SRYF procedures.

b. SRYF shall comply with all federal, state, county and city laws, statutes, ordinances, rules and regulations and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting performance of this Agreement.

5. Indemnity

a. SRYF shall defend, indemnify and hold harmless the CITY and MPUSD and their officers, officials, employees and agents from and against all losses, claims, demands, payments, suits, actions, recoveries and judgments of every nature and description brought or recoverable against it or them by reason of any act, error or omission of the SRYF, its agents or employees, in the performance of the work and/or any activity related to this contract.

b. CITY and MPUSD shall indemnify and hold harmless SRYF and its officers, officials, employees and agents from and against all losses, claims, demands, payments, suits, actions, recoveries and judgments of every nature and description brought or recoverable against it or them by any reason of any act, error or omission of the CITY and / or MPUSD, its agents or employees, in the performance of the any work related to this contract.

c. SRYF shall so conduct its activities upon the premises so as not to endanger any person lawfully thereon; SRYF hereby assumes full responsibility for the character, acts and conduct of all persons admitted to the premises by consent, expressed or implied, of its officers, agents, employees, or members.

6. Insurance

SYRF shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

a. SYRF shall provide and maintain at its own expense, during the terms of this Agreement a comprehensive general liability policy, including but not limited to premises, personal injuries, products, and completed operations, of insurance, satisfactory to CITY and MPUSD, with a combined single limit of not less than 5 million dollars (\$5,000,000) per occurrence for property damage and for bodily injury or death of persons.

b. If the organization has employees or hires an employee during the term of this agreement, evidence of adequate worker's compensation insurance on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than one-million dollars (\$1,000,000) per accident for all covered losses.

c. All insurance required by this Agreement shall be with a company acceptable to the CITY and MPUSD and authorized by law to conduct insurance business in the State of California. All such insurance shall be written on an occurrence basis, such policy with the coverage required herein shall continue in effect for the duration of this agreement.

d. Each insurance policy shall provide an endorsement naming both the CITY and MPUSD, its officers, agents, employees and volunteers as additional insured and shall further provide that such insurance is primary insurance to any insurance or self - insurance maintained by either the CITY or MPUSD.

e. Each insurance policy shall provide that both the CITY and MPUSD be given notice in writing at least thirty (30) days in advance of change, cancellation or non-renewal thereof. Said policy shall provide identical coverage for each sub-user, if any performing work under this Agreement, or be accompanied by a certificate of insurance showing each sub-user has identical coverage.

f. As a condition precedent to the CITY and MPUSD performance pursuant to this Agreement, SRYF shall file with a certificate of insurance with the City Risk Management Officer, on or before City or MPUSD facilities are utilized by SRYF showing that they have in effect the insurance required by this Agreement. SRYF shall file a new or amended certificate of insurance promptly after any change is made to any insurance policy which would alter the information on the certificate then on file.

g. SRYF acknowledges and agrees that any actual or alleged failure on the part of the CITY or MPUSD to inform SRYF of non-compliance with any insurance requirement in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.

h. SRYF shall renew the required coverage annually as long as the CITY and / or MPUSD, or their employees or agents face an exposure from operations of any type pursuant to this agreement.

i. All insurance policies shall be subject to approval by the City Attorney and MPUSD as to form and content.

7. City Representative

The Director of the City's Recreation Department or his/her designee, shall represent the City as the City Manager's authorized representative in all matters pertaining to the services to be rendered under this Agreement. All requirements of the City pertaining to the services to be rendered under this Agreement shall be coordinated through the City representative. The City's designee will act as the City's liaison with MPUSD and will be designated as such by SRYF for the purposes of communications and permitting as outlined under the terms of the MOU with the City.

8. SRYF Representative

SRYF's President and/or designee shall represent SRYF in all matters pertaining to the services and materials to be rendered under this Agreement; all requirements of SRYF pertaining to the services or materials to be rendered under this Agreement shall be coordinated through the representative of SRYF.

9. Notices

All notices required by this Agreement shall be in writing, and shall be personally delivered, sent by first class mail with postage prepaid, or by commercial courier, addressed as follows:

To City: City Manager
City of Seaside
City Hall
440 Harcourt Avenue
Seaside, California 93955
(831) 899-6701

To SRYF: Seaside Raiders
Claudia Link (President)
1365 Skyview Drive
Seaside, California 93955

Nothing in this provision shall be construed to prohibit communication by more expedient means, such as by telephone, electronic mail, or facsimile transmission, to accomplish timely communication. However, to constitute effective notice, written confirmation or a telephone conversation or an original facsimile transmission must be sent by first class mail, by commercial carrier, or hand delivered. Each party may change the address by written notice in accordance with the paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of three days after mailing, unless such date is a date on which there is no mail service. In that event, communication is deemed to occur on the next mail service day.

10. Assignment

Neither party shall assign or sublet any portion of the Agreement without the prior written consent of the other party.

11. Attorney Fees and Costs

Should either party to this Agreement bring suit against another party (formal Judicial proceeding, mediation or arbitration), for breach of any term, covenant, condition or obligation contained herein for the recovery of any sum due hereunder, or for any summary action for forfeiture of this Agreement or to prevent further violations of any of the terms, covenants, conditions, or obligations, or for any other relief then, and in that event, the case shall be handled in Monterey County, California, and the prevailing party in such suit or summary action shall be entitled to a reasonable attorney's fee to be fixed by the judge, mediator or arbitrator hearing the case and such fee shall be included in the judgment, together with all costs.

12. Duration of Agreement

This Agreement shall continue until such time as terminated in accordance with section 13 below.

13. Termination

a. If SRYF defaults in the performance of this Agreement, or materially breaches any of its provisions, City at its option may terminate this Agreement by giving written notice to SRYF.

b. Without limitation to such rights or remedies as the City shall otherwise have by law, either party shall have the right to terminate this Agreement for any reason upon ninety (90) days' written notice to the other party. If City terminates the Agreement, City shall reimburse SRYF for its expenses directly related to facility fees that were paid by SRYF for use that has not yet occurred, according to the City facility reservation cancellation policy in effect at the time of the termination.

14. Entire Agreement; Amendment

Time shall be of the essence in this Agreement. Failure on the part of either party to enforce any provisions of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provisions or any other provision. This Agreement shall be governed and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST:

CITY OF SEASIDE ("City")

City Clerk

By _____
City Manager

APPROVED AS TO FORM: SEASIDE RAIDERS YOUTH FOOTBALL ("SRYF")

_____ By _____

USE AGREEMENT FOR CITY OF SEASIDE FACILITIES

This use Agreement is entered into this _____ day of _____ 2019, by and between the City of Seaside, a Municipal Corporation under the laws of the State of California hereinafter referred to as "CITY," and Seaside Raiders (organization), hereinafter referred to as the "FIELD USER," for the purposes of establishing terms and conditions for the use of the City's various facilities

1. PREMISES

CITY hereby agrees to permit FIELD USER to use the public areas of Cutino Park, and other MPUSD facilities in accordance with the MOU between the CITY and MPUSD, located within the City of Seaside, California.

2. USE OF FACILITY

- a. The parties hereto agree that FIELD USER shall have use of the premises hereinabove described for their 2019 season, commencing July 22, 2019 and ending November 29th, 2019. FIELD USER will start use at Cutino Park on 7/22/19 pending the completion of the construction and will use the facility Monday – Friday until 8/16/19 and the use the facility Tuesday, Wednesday, Thursdays through the remainder of the season. Subject to reservations made with the City of Seaside Recreation Services. There will also be 5 Saturdays that a MPUSD facility will be used for the purpose of games. Facilities will only be used for the purpose of SRYF football season practices and games, league meetings league functions, including tournament(s) not to exceed 3 days in length.
- b. FIELD USER is required to notify CITY in the event fields will not be used. Failure to notify the CITY of non use may result in a \$50 fee to recoup the cost for the City's staff time, and If the cancellation is of a MPUSD facility a fee of \$100 will be charged to recoup the MPUSD cost for staff.
- c. FIELD USER shall provide the CITY with a monthly schedule identifying the day, time, and team name utilizing the fields to be posted at each field. The monthly schedule shall be submitted to the CITY on the 25th day of the month by completing the Field Usage Schedule (**Attachment 'A'**).
- d. CITY shall give as much notice as possible in the event that the fields will be unavailable due to conditions beyond its control.
- e. The CITY will act as a liaison with the Monterey Peninsula Unified School District (MPUSD) to access and schedule available facilities through the CITY'S MOU with MPUSD.

- i. City shall make the priority reservations for SRYF use of the City sports fields and facilities associated with MPUSD by June 1st of each year for that year's permits, and shall notify SRYF of their availability by June 15th of each year. Any changes in the availability of the facilities compared to prior year will be noted by the City and MPUSD and shared with SRYF.

3. RENTAL AMOUNT

- a. FIELD USER shall pay to CITY for the use of the premises as established in the City of Seaside Fee Schedule, which may be revised during the course of this agreement by action of the City Council. If the fee is adjusted during the course of this agreement, the new fee approved by the City Council will be applied. FIELD USER shall pay for all field use fees resulting for field use at MPUSD. In lieu of these fees, the FIELD USER may provide materials and labor with approval from the CITY. These "in lieu" fees shall include but not be limited to at least the following:
 - Preparation of fields before each use including striping (paint included).
 - Pickup and removal of all trash and debris from the City Facility or MPUSD Facility after each use.
 - Rake, sweep or blow off the spectator areas from the CITY facility or MPUSD Facility after each use and dispose of all debris to include sunflower seeds, peanut shells etc.
 - If snack bar is used FIELD USER will need to clean and maintain snack bar in accordance with the parameters set by the Monterey County Health Department, and have each snack bar cleaned and all equipment moved at the end of the season.
 - Provide a minimum of 5 (five) adult volunteers to assist the City during both the 4th of July Red White and Blues event on July 4 each year , and the Winter Wonderland and Tree Lighting which occurs on the second Friday in December of each year
- b. CITY shall notify FIELD USER of any changes to the fee schedule 45 days prior to applying the new fees for use of the parks.
- c. Payment shall be made on a monthly basis or other schedule agreeable to the City within 30 days of the billing.

4. CONDITION OF FACILITY

CITY agrees to maintain City facilities to include regular trimming of grass. FIELD USER is responsible for trash removal that occurs during usage. The FIELD USER is responsible for inspecting fields prior to each event to ensure it is in proper condition for use. MPUSD will be responsible for maintaining all facilities under their jurisdiction.

5. MAINTENANCE OR RENOVATION OF FACILITY

- a. CITY shall give as much notice as possible in the event that the facility will be unavailable due to conditions beyond its control, equipment malfunction or other situations requiring emergency maintenance or repairs that would restrict use of the facility by FIELD USER.
- b. Should MPUSD make the CITY aware that a previously scheduled facility is no longer available the CITY liaison will notify the FIELD USER.

6. RESPONSIBILITY FOR PREMISES

- a. FIELD USER shall inspect the facilities upon each use and notify the City of damage or deficiencies.
- b. FIELD USER shall quit and surrender the premises following each period of use under this Agreement in as good as state and condition as they were at the commencement of each such period. FIELD USER also agrees that if said premises, or the buildings, equipment, or furnishings thereon, are damaged during the term of the Agreement, by act, default, or negligence of FIELD USER, its officers, agents, employees, members, guests, patrons, or any person or persons admitted by FIELD USER to said premises, FIELD USER shall pay to CITY upon demand such sum as shall be necessary to restore said premises to the condition they were in at the commencement of each period of use under this agreement.
- b. FIELD USER shall provide 24 hour notification to the City for non use of facility as outlined in the scheduled identified as **Attachment 'B'** to this agreement.

7. COOPERATION

It is understood that FIELD USER will cooperate with other field users of Cutino Park that have field use agreements with the city.

- a. Boys and Girls Club does have an active agreement with the CITY, and may use Cutino Park from time to time between the hours of 4pm-6pm.

8. ALARM AND FIELD LIGHTS

FIELD USER will need to have lights shut off no later than 15 mins after the conclusion of their scheduled use.

9. KEYS

FIELD USER has keys to light panel, and storage container at Cutino Park. Keys

for MPUSD facilities will not be issued. If MPUSD facilities are not opened for reserved use contact the CITY liaison to make contact with MPUSD.

10. INSURANCE

- a. FIELD USER shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:
 1. FIELD USER shall provide and maintain at it's own expense, during the terms of this Agreement a comprehensive general liability policy, including but not limited to premises, personal injuries, products, and completed operations, of insurance, satisfactory to CITY & MPUSD, with a combined single limit of not less than 5 million dollars (\$5,000,000) per occurrence for property damage and for bodily injury or death of persons.
 2. If the organization has employees or hires an employee during the term of this agreement, evidence of adequate worker's compensation insurance on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than one-million dollars (\$1,000,000) per accident for all covered losses.
- b. All insurance required by this Agreement shall be with a company acceptable to CITY & MPUSD and authorized by law to conduct insurance business in the State of California. All such insurance shall be written on an occurrence basis, such policy with the coverage required herein shall continue in effect for the duration of this agreement.
- c. Each insurance policy shall provide an endorsement naming CITY & MPUSD, its officers, agents, employees and volunteers as additional insured and shall further provide that such insurance is primary insurance to any insurance or self - insurance maintained by CITY.
- d. Each insurance policy shall provide that CITY & MPUSD be given notice in writing at least thirty (30) days in advance of change, cancellation or non-renewal thereof. Said policy shall provide identical coverage for each sub-user, if any performing work under this Agreement, or be accompanied by a certificate of insurance showing each sub-user has identical coverage.
- e. As a condition precedent to CITY performance pursuant to this Agreement, FIELD USER shall file with a certificate of insurance with the City Risk Management Officer & the MPUSD Risk Management Officer, on or before City or MPUSD facilities are utilized by FIELD USER showing that they have in effect the insurance required by this Agreement. FIELD USER shall file a new or amended certificate of

insurance promptly after any change is made to any insurance policy which would alter the information on the certificate then on file.

- f. FIELD USER acknowledges and agrees that any actual or alleged failure on the part of the CITY to inform FIELD USER of non-compliance with any insurance requirement in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.
- g. FIELD USER shall renew the required coverage annually as long as CITY, or its employees or agents face an exposure from operations of any type pursuant to this agreement.

11. INDEMNITY

- a. FIELD USER shall defend, indemnify and hold harmless CITY & MPUSD and its officers, officials, employees and agents from and against all losses, claims, demands, payments, suits, actions, recoveries and judgments of every nature and description brought or recoverable against it or them by reason of any act, error or omission of the FIELD USER, its agents or employees, in the performance of the work and/or any activity related to this contract.
- b. CITY shall indemnify and hold harmless MPUSD & FIELD USER and its officers, officials, employees and agents from and against all losses, claims, demands, payments, suits, actions, recoveries and judgments of every nature and description brought or recoverable against it or them by any reason of any act, error or omission of the CITY, its agents or employees, in the performance of the any work related to this contract.
- c. FIELD USER shall so conduct its activities upon the premises so as not to endanger any person lawfully thereon; FIELD USER hereby assumes full responsibility for the character, acts and conduct of all persons admitted to the premises by consent, expressed or implied, of its officers, agents, employees, or members.

12. COMPLIANCE WITH LAWS

FIELD USER shall comply with all laws, statutes, ordinances, rules or regulations of the United States, the State of California, the City of Seaside, or any department or agency thereof, including such regulations now in force or to be established pertaining to use of the premises.

13. TRANSFERABILITY

This agreement applies exclusively to Seaside Raiders (SYRF) and field use privileges will not be transferred to any other group or individual. Any other groups or individuals wishing to use City of Seaside fields must apply in advance to the Recreation Services Department for consideration.

FIELD USER shall not sublease in whole or any part of the premises and shall not assign, hypothecate, or mortgage any or all of its rights hereunder, without the prior written consent of CITY.

14. TERM OF AGREEMENT

- a. This agreement shall remain in effect until November 30, 2019, agreement requires proof of current liability insurance naming the City of Seaside as additional insurers and updated **Attachments 'A', 'B', and 'C'**.
- b. This agreement may be terminated by either party upon thirty (30) days written notice.

15. NONDISCRIMINATION

FIELD USER will not discriminate against any participant based on race, color, sex, origin, disability, or economic status.

16. TAX EXEMPT STATUS

If applicable, FIELD USER shall submit a copy of the letter from the Internal Revenue Service determining their tax exempt status under 501 c (3) of the Internal Revenue Code and a copy of the letter from the State of California Franchise Tax Board determining tax exempt status under Section 23710 (d) Revenue and Taxation Code prior to execution of this agreement.

17. NOTICE

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

CITY OF SEASIDE
Recreation Services
986 Hilby Avenue
Seaside, CA. 93955

SEASIDE RAIDERS
Claudia Link (President)
1365 Skyview Dr
Seaside, CA 93955

18. ATTORNEY FEES AND COSTS

Should either party to this Agreement bring suit against another party (formal Judicial proceeding, mediation or arbitration), for breach of any term, covenant, condition or obligation contained herein for the recovery of any sum due hereunder, or for any summary action for forfeiture of this Agreement or to prevent further violations of any of the terms, covenants, conditions, or obligations, or for any other relief then, and in that event, the case shall be handled in Monterey County, California, and the prevailing party in such suit or summary action shall be entitled to a reasonable attorney's fee to be fixed by the judge, mediator or arbitrator hearing the case and such fee shall be included in the judgment, together with all costs.

19. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between FIELD USER and CITY. No term, provision, or condition of this Agreement may be altered or amended, nor may any term, provision or condition be added to this Agreement, except by a writing executed by both FIELD USER and CITY.

Authorized Representative
FIELD USER- Seaside Raiders

Date

Authorized Representative
CITY OF SEASIDE

Date



CITY OF SEASIDE STAFF REPORT

Item No.: 8.J.

TO: City Council

FROM: Craig Malin, City Manager

BY: Rick Riedl, City Engineer

DATE: May 16, 2019

SUBJECT: ADOPT A RESOLUTION TO APPROPRIATE \$18,000 FROM THE CAPITAL RESERVE FUND FOR THE CONSTRUCTION OF TEMPORARY STORAGE FACILITIES

PURPOSE & RECOMMENDATION

Appropriate \$18,000 from Capital Reserve fund for the construction of a temporary storage facility to provide the City with the ability to store personal items that may be acquired from the public.

BACKGROUND

The City is experiencing increased needs for providing services for homeless persons. In April, the City applied for a HEAP grant that would provide relocation services and temporary housing and ancillary facilities for homeless persons. The grant application did not include facilities to store personal items that may be acquired from the public. The proposed facilities would provide temporary secure storage of these items that could be reclaimed by the public for possible storage at alternative locations.

City staff met to discuss options for providing a secure storage facility. Upon careful consideration of the options, staff believes that a temporary storage facility would be the most cost effective solution at this time. The proposed facilities could include a repurposed freight storage container.

NEXT STEPS

Pending City Council approval to fund this project, staff will prepare construction drawings for a temporary facilities to be located adjacent to the parking lot used by the Police Department for issuance of a Minor Use Permit granted by the Zoning Administrator. Staff will present this project to the Board of Architectural Review for

review and approval.

ENVIRONMENTAL DETERMINATION

Per Title 14 of the California Code of Regulations, Chapter 3, "Guidelines for Implementation of California Environmental Quality Act (CEQA)," Article 19, "Categorical Exemptions," Section 15303(e), "New Construction or Conversion of Small Structures," the following actions are categorically exempt;

"Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences."

Evidence:

Based on the proposed temporary storage facility would not exceed 500 square feet in building footprint, the structure is an accessory to existing City Hall facilities.

FISCAL IMPACT

Funds for this project are not included in the FY 2018/19 Adopted Budget. The proposed action will require an increase in appropriations in the amount of \$18,000 funded by a reserve reduction from the Capital Reserve Fund.

ATTACHMENTS

1. Resolution
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

RESOLUTION NO. 19-XX

A RESOLUTION OF THE CITY OF SEASIDE CITY COUNCIL

APPROVING THE APPROPRIATION OF EIGHTEEN THOUSAND DOLLARS (\$18,000) FROM CAPITAL RESERVE FUND FOR A TEMPORARY STORAGE FACILITY AND FISCAL YEAR 2018/2019 BUDGET AMENDMENT IN THE AMOUNT OF EIGHTEEN THOUSAND DOLLARS (\$18,000) FOR THE PROJECT.

WHEREAS, the City is experiencing increased needs for providing services for homeless persons; and

WHEREAS, a storage facility would provide the City with the ability to store personal items that may be acquired from the public; and

WHEREAS, a temporary storage facility located at City Hall would be the most cost effective solution at this time; and

WHEREAS, in accordance with Title 14 of the California Code of Regulations, Chapter 3, "Guidelines for Implementation of California Environmental Quality Act (CEQA)," Article 19, "Categorical Exemptions," Section 15303(e), "New Construction or Conversion of Small Structures," a proposed temporary storage facility not exceeding 500 square feet in building footprint would be an accessory structure to existing City Hall facilities is therefore categorically exempt from CEQA.

NOW, THEREFORE BE IT RESOLVED, that the City of Seaside City Council approves appropriating \$18,000 from the Capital Reserve Fund and directs the finance department to amend the fiscal year 2018/2019 budget in the amount \$18,000 for this project.

PASSED AND ADOPTED at a regular meeting of the City of Seaside City Council duly held on the 16th day of May, 2019 by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

Ian Oglesby, Mayor

ATTEST:

Lesley Milton-Rerig, City Clerk



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 9.A.

TO: City Council

FROM: Craig Malin, City Manager

BY: Gloria Stearns, Community Development Manager
Rick Medina, Senior Planner

DATE: May 16, 2019

SUBJECT: APPEAL OF PLANNING COMMISSION DENIAL FOR USE PERMIT APPLICATION NO. UP-19-01. LARRY AMOS, APPLICANT, IS APPEALING THE PLANNING COMMISSION DENIAL OF A USE PERMIT TO ALLOW THE ESTABLISHMENT OF AN ITINERANT VENDOR TO COOK AND SELL BARBECUE FOOD PRODUCTS OUTDOORS IN THE REAR OPEN SPACE AREA OF TERRACE LIQUORS LOCATED AT 1949 FREMONT BOULEVARD IN THE REGIONAL COMMERCIAL (CRG) ZONING DISTRICT. THE PROJECT IS EXEMPT CLASS 3, SECTION 15303(E) FROM THE CALIFORNIA ENVIRONMENTAL ACT (CEQA) GUIDELINES.

PURPOSE & RECOMMENDATION

In accordance with Section 17.52.190.E of the Seaside Municipal Code (SMC), the use of a barbecue trailer/food trailer for the purpose of selling cooked food outdoors on private property may be allowed with the issuance of a Use Permit. In accordance with Section 17.76.020.C SMC, the City Council has authority over use permits that are appealed from the Planning Commission decision. Staff recommends that the City Council overturn the denial of Use Permit Application No. UP-19-01 and approve Use Permit Application No. UP-19-01 subject to the conditions listed in the Draft Resolution.

BACKGROUND

The proposed project was first introduced at a Special Meeting of the Planning Commission on March 6, 2019. After receiving public comment and closing the public hearing, the Commission continued the Public Hearing to its regular meeting of March 27, 2019. Issues raised at this meeting related to the overall appearance of the site which the Commission found lacks a paved parking area and walking surface, the noise

from an exterior generator would be excessive and incompatible with the adjoining motel use to the south, lack of electrical power source, and the overall incompatibility of an outdoor cooking use as it relates to the regional commercial atmosphere the Seaside General Plan seeks to achieve. On March 27, 2019, after its deliberation of the project issues and acceptance of public comments, the Planning Commission directed City staff to prepare a Resolution denying the proposed project per evidence the Commission entered into the record for adoption at its April 10, 2019 regular meeting. The applicant's appeal was filed on April 17, 2019, seeking to have the City Council overturn the denial and approve Use Permit No. UP-19-01.

The property owner/business owner of Ord Terrace Liquors is proposing to lease the rear, undeveloped open space area of the project site located at 1949 Fremont Boulevard to operate an open-air outdoor barbecue food service. The liquor store was built in the 1950's and the rear area of the site has remained in its vacant, undeveloped condition since the opening of the liquor store.

The subject site is located within Regional Commercial (CRG) Zoning District. The City's Zoning Code allows for itinerant vendors serving from either a food truck or barbecue trailer to be located as a permanent outdoor venue when located on private property upon receiving a use permit.

SITE LOCATION AND DESCRIPTION

The subject site is an approximately 21,000 square-foot parcel located on the west side of Fremont Boulevard, adjacent to the southwest corner of the intersection of Fremont Boulevard and Playa Avenue (Attachment 2 - Location Map). The liquor store building is approximately 5,580 square feet in size. The front façade and entrance of the liquor store building is facing toward Fremont Boulevard to the east with the rear undeveloped area fronting the alley to the west and Playa Avenue to the north. An asphalt parking area consisting of 13 parking stalls is located on the front and north sides of the liquor store.

The subject site is bordered on the north by the Cost Plus shopping center, on the east by strip commercial retail/service businesses, on the west by the American Legion Service Club, and on the south by the 33-unit Thunderbird Motel. Location Map is provided as Attachment 2. An aerial image is provided as Attachment 3. Site Photographs are provided as Attachment 4.

PROJECT DESCRIPTION

The applicant is proposing to use the entire undeveloped 90-foot by 120-foot vacant, undeveloped area (10,800 square feet) located behind the liquor store to operate an outdoor barbecue food service (See Site Plan – Attachment 1-Exhibit A). The barbecue trailer/barbecue grill (Service Area) will be located on the far north side of the site

within a 15-foot by 85-foot area (1,275 square feet) with the remaining 90-foot by 85-foot area (7,650 square feet) to the south being used to provide for eight parking spaces, including one van disabled space. A portion of the south side of the site will be used for an accessible pedestrian path that will provide a connection between the "Service Area" and the front sidewalk on Fremont Boulevard at the southeast corner of the site. A chain connected with metal post bollards will be installed along the property line abutting the alley to the west to direct the flow of vehicle traffic in and out of the 24-foot wide drive entrance. Plastic stand-up bollards will be used to partition the barbecue/pedestrian areas from the parking lot.

The barbecue trailer and cooking grill will be placed within the designated "Service Area" listed on the north side of the site parallel to Playa Avenue. As shown in the attached photographs, the cooking grill will be within an enclosed tent and the service window for the barbecue trailer will face toward Playa Avenue.

Per the Monterey County Health Department regulations, all food cooked on the grill will be brought into and packaged for sale inside the trailer. There will be no outdoor tables or chairs on-site. Food sales will be for to-go only orders. It has been confirmed by the Monterey County Health Department that a portable bathroom will not be required for the public if the applicant is not providing any tables or chairs for onsite consumption. The applicant and employees of the barbecue business would have access to a bathroom within the adjoining liquor store as required State and local County Health Officials. The barbecue trailer will contain hand washing facilities for the food preparers per State and County Health standards. The trailer and barbecue grill will be removed from the site nightly. The proposed hours of operation are Monday through Friday from 11 am to 7 pm. Applicant will begin preparation and set-up of the service area at 7 am and will have the breakdown of the site completed by 9 pm at the latest.

ENVIRONMENTAL REVIEW

This project is exempt from the California Environmental Quality Act pursuant to Class 3, Section 15303(e): Class 3 consists of new structures in limited numbers. The proposed trailer and outdoor cooking grill are minor accessory structures that would not have any impact on the environment.

STAFF ANALYSIS AND FINDINGS

Use permits are for those uses which, by their nature, require special consideration so that they may be located properly with respect to the objectives of the Municipal Code and with respect to their effects on surrounding properties. In order to achieve these purposes, specific conditions can be applied on a case-by-case basis in order to mitigate impacts and ensure the outside cooking activity is compatible with the surrounding area and will not have any adverse external effects (e.g. smoke, odor, noise).

Zoning Code

The proposed use is located in a dense, urbanized commercial area of the City, containing a mix of motels, restaurants, retail, and service organizations. The adjoining properties are developed with a 33-unit motel to the south, the American Legion service club to the west and retail uses within a shopping center located across Playa Avenue to the north and a strip shopping center located across Fremont Boulevard to the east.

City staff finds that the overall size of the rear area where the parking and barbecue service area will be located is sufficient in size to avoid overcrowding on the parcel; to provide access for pedestrians from the public sidewalk on Fremont Boulevard; and vehicular circulation for vehicles both patronizing the liquor store and outdoor barbecue business without any conflict on the operation of the adjoining businesses.

The following factors unique to the site and business operations of the barbecue vendor demonstrate how the project can serve to benefit the community and improve the business atmosphere pending the future redevelopment of the site when water meters are available for the construction of a permanent commercial structure:

- The location of the service area will be positioned on the opposite side of the parcel (160 feet) to reduce odor, noise and visual impacts on the motel to the south; and

- The barbecue trailer as shown on the site photos will provide a professional appearance with the service windows oriented away from the motel to the south;

- Vehicular access from the alley will be controlled by a 24-foot wide drive entrance. This will reduce back-ups from Playa Avenue that could affect other vehicles or pedestrians and provide a safe, controlled ingress and egress into and out of the site; and

- The area of the service area will be setback approximately 25 feet from the curb line of Playa Avenue to minimize conflict with the roadway and allow for pedestrians to safely access the site; and

- With no on-site dining, the off-street parking area will provide sufficient parking and mitigate litter and food related disposable waste issues; and

- A trash enclosure will be constructed to provide a barrier from garbage and waste generated by the liquor store and barbecue business; and

- The development of the vacant area within a primary regional commercial area will serve to upgrade the visual appearance of the area, provide for a business opportunity that will attract both local and visitors coming to the city.

Noise

Patron's voices, vehicular traffic and the operation of a 1,300 watt Honda generator would be the main noise sources at the project site. The proposed hours of operation for the sales of food are 11:00 am through 7:00 pm, Monday through Friday. The set-up and pre-preparation of food on the outdoor grill will begin at 7:00 am with the outdoor cooking ceasing at 6:30 pm. The generator will be turned on at 10:00 am and shut down no later than 9:00 pm. The use of the generator is required to run the refrigeration and hot box inside the trailer and when lights are required during non-daylight savings time.

The outdoor activity occurring with the proposed business must be conducted in accordance with the objectives of the City's Noise standards for a stationary noise source under Section 17.30.060.E of the Seaside Municipal Code (SMC). No use shall generate noise in excess of levels identified in Table 3-3 (Maximum Interior and Exterior Noise Standards) and 3-4 (Noise/Land Use Compatibility Matrix). The primary noise source associated with the business would be the operation of the 13,000 watt generator which would be at 60dB.

The noise sensitive use closest to the site is the 33-unit Thunderbird Motel on the adjacent parcel to the south. Per Table 3-3, the maximum exterior dB is 70. Per the Table 3-4, the noise compatibility matrix lists less than 55 dB as normally acceptable with a noise level of 65 dB or less as conditionally acceptable. The portion of the motel facing the project site consists of 12 rooms, with 10 rooms having small bathroom window facing the site and two having a 40/40 windows. The primary sleeping area of each room is oriented away from the project site. Based on the location of the generator combined with the distance of the motel from the "Service Area" (160 feet) and the vehicle traffic noise from Fremont Boulevard and Playa Avenue, noise levels will operate at a normally acceptable level. Furthermore, Condition No. 2 includes noise mitigation to further reduce noise levels to a less than significant level.

Parking

In front of the site, there are 11 parking spaces on a paved asphalt surface. The applicant is proposing to stripe an additional eight spaces on the graveled surface within the rear barbecue area, which includes a van disabled space. An outdoor itinerant vendor does not have a specific parking requirement in the Zoning Code. Per Section 17.34.040.A. 2, a land use not specifically listed shall be as required by the review body. In this case, the City Council would be the review body.

The Parking lot to the rear has been designed to allow for a controlled entrance and exit so that vehicles are entering and exiting without interference with the pedestrian walkway and the disabled space is located the closest to the "Service Area". In review of Table 3-8 (Parking Requirements By Land Use), eight parking spaces would equal

the size of a 1,600 square-foot take-away restaurant. City finds that using this criteria the proposed business would be providing an acceptable number of parking spaces. Additionally, the business would be operating week days only. Should parking related problems occur, staff has included a condition of approval which allows the Community Development Director to refer the Use Permit back to the City Council for possible mitigation measures.

Land Use

- The City of Seaside needs to find creative uses for land that does not currently have water available. Food trucks / trailers appear to be one of those uses. Food trucks / trailers may enliven an area that would otherwise likely be vacant for a long period of time.
- Food trucks /trailers are an affordable way for a business to prototype their menu concept; it helps to demonstrate potential success before investing in a traditional brick and mortar building. Food trucks / trailers, in some cases, are considered a stepping-stone to a traditional restaurant. Some food truck / trailers remain mobile because of a preference for independence or financial difficulties, per a study in Portland OR.
- Some brick and mortar restaurants may resent food trucks / trailers because it appears they have an unfair advantage due to reduced operating costs. However, studies in Portland OR show that mobile facilities often create opportunities for those lacking capital to begin a restaurant concept sooner, and it also tends to provide greater opportunities for minorities and women to start new businesses.
- The City Attorney for the City of Seaside states that there shall be no limits on duration of the use permit – so a use permit for one year, for example, is not an option.
- When a business-owner makes an agreement to lease property for their food truck/trailer, the rent decision is made based on finances calculated operating full-time. The business-owner is relying on being able to serve food during regular eating hours in a week, so that they can afford the property rent. Also note in Portland OR, they determined through surveys that customers wanted mobile food options to be available daytime and evening hours, which leads to an increase of the area's vitality.
- Taxes are paid on all prepared food, whether in a food truck / trailer or brick and mortar restaurant. Business license fees are also paid.
- Restaurateurs do not need to fear food trucks / trailers threatening the success of their business. An article in The Economist cites Bureau of Labor Statistics that counties with "higher growth in mobile-food services have also had quicker growth in

their restaurant and catering businesses.” Austin TX had an 18% increase in restaurant count, while food trucks have increased by six times.

Building, Police, and Fire Review

The Building Division and Fire Department have reviewed the proposed use and do not have concerns with the proposal. Any physical design issues will be addressed with the forthcoming Design Review application. The Police Department also reviewed the proposal and has determined that no special security staff or precautions will be required.

Public Works

Public works has provided the following conditions:

- Provide tracker system at drive entrance to control the flow of dirt and debris from tires entering the City streets.
- All grease collection from the cooking grill and trailer shall be disposed within an on-site tallow container.
- Trash enclosure shall be constructed on-site to contain trash from the proposed business and existing liquor store.

Public Comments

Provided as Attachment 5 are two petitions the applicant has submitted from individuals and restaurant owners in support of his business. Written letter from Seaside citizen is provided as Attachment 6.

Findings

In accordance with S.M.C. Section 17.62.070, an application for a use permit shall be filed under the use permit process to determine whether the following findings can be made concerning the proposed project:

Finding 1

The proposed use is allowed within the applicable zone and complies with all other applicable provisions of this Zoning Ordinance and the Municipal Code.

Zoning Ordinance Conformance

This project is located within the Regional Commercial (RGC) Zoning District in which an itinerant vendor is permitted with use permit approval (S.M.C.S. 17.24.030, Table 2-4).

Evidence

- The location of the service area will be positioned on the opposite side of the parcel to reduce odor, noise and visual impacts on the motel to the south; and
- The barbecue trailer as shown on the site photos will provide a professional appearance;
- Vehicular access from the alley will be controlled by a 24-foot wide drive entrance. This will reduce back-ups from Playa Avenue that could affect other vehicles or pedestrians; and
- The area of the service area will be setback approximately 25 feet from the curb line of Playa Avenue to minimize conflict with the roadway and allow for pedestrians to safely access the site; and
- With no on-site dining, the off-street parking area will provide sufficient parking and mitigate litter and food related disposable waste issues; and
- A trash enclosure will be constructed to provide for garbage and waste generated by the liquor store and barbecue business; and
- The development of the vacant area within a primary regional commercial area will serve to upgrade the visual appearance of the area, provide for a business opportunity that will attract both local and visitors coming to the city.

Finding 2

The proposed use is consistent with the General Plan and any applicable specific plan.

Seaside General Plan Conformance

The Seaside General Plan Land Use Designation for the project site is Regional Commercial. According to the Seaside General Plan, the Regional Commercial land designation is intended to promote large scale development with retail, entertainment, and or service uses to serve the regional market.

Land Use Element

Goal LU--2: Revitalize existing commercial areas

Policy LU-2.1: Encourage consolidation of under-performing and under-utilized commercial properties

Evidence: The proposed outdoor food service will serve to revitalize a vacant, underutilized commercial property and provide for a retail/service use that will attract both local residents and visitors.

Finding 3

The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and planned future land uses in the vicinity.

Evidence: The proposed business will be designed to provide the following: An accessible pedestrian walkway from Fremont Boulevard to the "Service Area"; and Off-street parking; and A "Service Area" in compliance with Health Department regulations; and Mitigation to control the noise level.

Finding 4

The site is physically suitable for the type, density and intensity of use being proposed, including access, utilities, and the absence of physical constraints.

Evidence: The project site is served by existing water, wastewater, and electrical infrastructure and facilities with adequate capacity to serve the proposed project. As condition of approval, the applicant must receive clearance from the Monterey Peninsula Water Management District to document that the outdoor food use is exempt from District water allocation requirements.

Finding 5

Granting the permit would not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone district in which the property is located.

Evidence: The granting of a use permit for the proposed business based on the site plan submitted will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare of the City.

CONCLUSION

City staff recommends that the City Council grant the approval of Use Permit Application No. UP-19-01, and thereby overturn the denial of the use permit application made by the Planning Commission on April 10, 2019.

FISCAL IMPACT

None.

ATTACHMENTS

1. Attachment 1 - Draft Resolution
 2. Attachment 1 - Exhibit A - Site Plan
 3. Attachment 2 - Location Map
 4. Attachment 3 - Aerial Photo
 5. Attachment 4 Site photos
 6. Attachment 5 - Petitions in Support of Business
 7. Attachment 6 - Written Communications
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

RESOLUTION NO. 19-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE OVERTURNING A DENIAL OF THE PLANNING COMMISSION AND APPROVING A USE PERMIT TO ALLOW FOR AN OUTDOOR COOKING FACILITY AT 1949 FREMONT BOULEVARD IN THE REGIONAL COMMERCIAL ZONING DISTRICT

WHEREAS, Ku Hu Hong, property owner, and Larry Amos, applicant have applied for a use permit to allow:

- A. An itinerant vendor to establish an outdoor cooking facility on a private parcel in the Regional Commercial Zoning District.

WHEREAS, the proposed project requires discretionary approval, and it is the responsibility of the Planning Commission to consider and weigh the merits of the application and public input in relation to the policies, standards and intent of the Seaside General Plan and Seaside Municipal Code; and

WHEREAS, the Seaside Planning Commission considered oral comments and written information concerning the proposed use permit at a duly noticed special public hearing held on March 6, 2019 and at duly noticed regular continued public hearings on March 27, 2019 and April 10, 2019 and

WHEREAS, the Seaside Planning Commission denied the Use Permit at its meeting on April 10, 2019 and the applicant exercised their right of appealing this denial to the City Council on April 17, 2019, and

WHEREAS, the City Council considered oral comments and written information concerning the appeal on the proposed use permit at a duly noticed public hearing held on May 22, 2019, and

WHEREAS, the City Council is the designated body of the City to consider appeals from the Planning Commission, and it is the responsibility of the City Council to consider and weigh the merits of the application under appeal and receive public input on the application in relation to the policies, standards and intent of the Seaside General Plan and Seaside Municipal Code in its consideration of the use permit. and

WHEREAS, the project is a Categorically Exempt, Class 1, Section 15301(a) meeting the following conditions:

- a) The proposed project would involve the placement of a trailer and an outdoor barbecue grill that would be removed each day and would not have any impact on the use and operation of the existing liquor store building.

NOW, THEREFORE, BE IT RESOLVED, that the City Council adopts the following findings to overturn the Planning Commission denial for Use Permit Application No. UP-19-01 and to approve Use Permit Application No. UP-19-01:

1) The proposed use is allowed within the applicable zone and complies with all other applicable provisions of this Zoning Ordinance and the Municipal Code.

Zoning Ordinance Conformance

This project is located within the Regional Commercial (RGC) Zoning District in which an itinerant vendor is permitted with use permit approval (S.M.C.S. 17.24.030, Table 2-4).

Evidence

1. The location of the service area will be positioned on the opposite side of the parcel to reduce odor, noise and visual impacts on the motel to the south; and
2. The barbecue trailer as shown on the site photos will provide a professional appearance;
3. Vehicular access to the rear will be controlled via a 24-foot wide drive entrance located away from the intersection of the alley with Playa Avenue to reduce back-ups that could affect other vehicles or pedestrians; and
4. The area of the service area will be setback approximately 25 feet from the curb line of Playa Avenue to minimize conflict with the roadway and allow for pedestrians to safely access the site; and
5. With no on-site dining, the off-street parking area will provide sufficient parking and mitigate litter and food related disposable waste issues; and
6. A trash enclosure will be constructed to provide for garbage and waste generated by the liquor store and barbecue business; and

7. The development of the vacant area within a primary regional commercial area will serve to upgrade the visual appearance of the area, provide for a business opportunity that will attract both local and visitors coming to the city.

2) The proposed use is consistent with the General Plan and any applicable specific plan.

Seaside General Plan Conformance

The Seaside General Plan Land Use Designation for the project site is Regional Commercial. According to the Seaside General Plan, the Regional Commercial land designation is intended to promote large scale development with retail, entertainment, and or service uses to serve the regional market.

Land Use Element

Goal LU--2: Revitalize existing commercial areas

Policy LU-2.1: Encourage consolidation of under-performing and under-utilized commercial properties

Evidence: The proposed outdoor food service will serve to revitalize a vacant, underutilized commercial property and provide a retail/service use that will attract both local residents and visitors.

3) The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and planned future land uses in the vicinity.

Evidence: The proposed business will be designed to provide the following:

1. An accessible pedestrian walkway from Fremont Boulevard to the "Service Area"; and
2. Off-street parking; and
3. A "Service Area" on compliance with Health Department regulations; and
4. Mitigation to control the noise level.

4) The site is physically suitable for the type, density and intensity of use being proposed, including access, utilities, and the absence of physical constraints.

The project site is served by existing water, wastewater, and electrical infrastructure and facilities with adequate capacity to serve the proposed project. As condition of approval, the applicant must receive clearance from the Monterey Peninsula Water Manage District to document that the outdoor food use is exempt from District water allocation requirements.

5) Granting the permit would not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone district in which the property is located.

The granting of a use permit for the proposed business based on the site plan submitted will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare of the City.

BE IT FURTHER RESOLVED, that the City Council approves Use Permit Application No. UP-19-01 subject to the following conditions:

Project Specific

Planning:

1. Except as modified by required conditions of approval, plans submitted for a Certificate of Occupancy shall substantially conform to the plans identified as "Catering Fresh 2U" Stamped February 13, 2019. Site Plan is provided as Exhibit A.
2. Minor modifications to the use permit consistent with Seaside Municipal Code Section 17.54.090.C may be made subject to the review and approval by the Zoning Administrator and the City Council if such modifications are in keeping with the intent of the original approval,
3. Signage is not a part of this review. The applicant shall apply for a separate sign permit for the installation of any permanent exterior or window signs associated with the outdoor cooking business.

4. The hours of operation will be from 7 am to 7 pm, Monday through Friday. The sales of food will be from 11 am to 7 pm. The generator shall be shut off no later than 9 pm.
5. The outdoor generator shall not exceed a decibel level of 65 dB as heard from the adjoining property line to the south.
6. Applicant shall obtain a permit from the Monterey County Health Department for the preparation and sale of food from an outdoor grill.
7. A handwashing facility for employees shall be provided in compliance with Health Department regulations.
8. A trash enclosure shall be constructed to provide for trash and debris from the liquor store and outdoor cooking facility.

Fire Department:

1. Prior to the issuance of a Certificate of Occupancy, applicant shall comply with the requirements of the Seaside Fire Marshall for the placement and operation of the outdoor trailer and equipment.

Building Department:

1. Prior to commencing business, the applicant must receive a Certificate of Occupancy from the Building Division.

Standard:

1. Use Permit approval is subject to revocation procedures contained in S.M.C.S. 17.69.060 in the event any of the conditions of this approval are violated, this discretionary permit was granted on the basis of false or misleading information, written or oral, given willingly or negligently by the applicant or property owner, and/or there has been a discontinuance of the use, or purposed for which the permit was issued, for a period of 180 days or more.
2. This Use Permit is subject to procedures and requirements of Chapter 17.54 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 6 (Zoning Ordinance Administration) of Title 17 of the Municipal.
3. The applicant agrees as a condition and in consideration of the approval of this discretionary permit that it will defend, indemnify and hold harmless the City of Seaside or its agents, officers and employees from any claim, action or proceeding against the City or its agents,

officers or employees to attack, set aside, void or annul this approval. The applicant will reimburse the City for any court costs and attorney's fees, which the City may be required by a court to pay as a result of such action. City may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. The City shall promptly notify the applicant of any such claim, action, or proceeding, and the City shall cooperate fully in the defense thereof.

4. These conditions shall be binding on the applicant and all successors in interest, subject to the business operations not lapsing for a period 180 consecutive days. In the case of a transfer of ownership, the new owner of the establishment shall sign the adopted Resolution acknowledging these conditions of approval. Failure to comply with this requirement may result in revocation of this use permit.
5. Any proposed future development shall comply with the requirements of the Fire, Health, Planning, Code Enforcement, Building and Public Works Departments.
6. The project shall comply with the requirements and the applicable ordinances of the Monterey Peninsula Water Management District (MPWMD) and the Monterey County Health Department.
7. The project shall be responsible for all applicable local and/or regional development and/or impact fees including, but not limited to, sewer, water, and traffic fees, which shall be paid prior to building permit issuance.
8. The permit shall have no force or effect unless and until accepted, and the terms thereof agreed to, in writing, by the applicant and property owner within fifteen (15) days from the date of its approval.
9. This Use Permit shall expire and become void 12 months from the date of approval, or upon the expiration of another time limit established by the review authority, unless use has commenced within the required time limit or the Zoning Administrator has granted an extension of time. In accordance with Section 17.54.080.B.1.a of the Zoning Code, the applicant must file request for time extension at least 30 days prior to expiration date in order to receive consideration of time extension by the Commission.
10. For purposes of assuring compliance, the applicant, agents, representatives or their assignees agree not to deny or impede access

to the subject property by City employees in the performance of their duties.

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Seaside, State of California, on the 16th of May, 2019, by the following vote:

AYES:	COUNCILMEMBERS
NOES:	COUNCILMEMBERS
ABSENT:	COUNCILMEMBERS
ABSTAIN:	COUNCILMEMBERS

Ian N. Oglesby, Chairperson

ATTEST:

Lesley Milton-Rerig, City Clerk

Use Permit Application No. UP-19-01

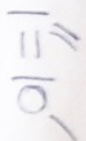
These permits are hereby accepted upon the express terms and conditions hereof, and shall have no force or effect unless and until agreed to, in writing, by the applicant and property owner(s).

The undersigned hereby acknowledge the approved terms and conditions and agree to fully conform to, and comply with, said terms and conditions within the time frames approved by the City of Seaside City Council.

Applicant's Signature

Date

Property Owner's Signature (if different from above) Date



Location Map

Project Site: 1949 Fremont Boulevard



Attachment 3

Aerial Photo



Attachment 4

Site Photos



View of the front façade for Liquor Store



View of trailer location from Playa Avenue



View of site with trailer and tent covering outdoor grill from Playa Avenue



View of site with trailer and tent covering outdoor grill from Playa Avenue



View of site from alley



View of site from motel

Attachment 5

Petitions in Support

Seaside Citizens in Support

Petition

Citizens of Seaside CA 93955

Vote for CateringFresh2U to operate as a BBQ business at 1949 Fremont Blvd as well as the support. We need a Great Business in Seaside.

Name.

Address

Juan Barcenas	1659 SOTO ST
Rosa Blensde	1739 DARWIN
Abraham Lopez	1844 Laguna
Juan M Verde	1291 Playa Ave
Fernando Verde	
Scott Conter	1255 Circle
Erica Dizon	595 Williams Ave
Donna Scott	800 Scott St
Marco Rios	1833 Ord Green Ave
Clyde Lewis	1660 Broadway Ave

1627 Highland St	John Smith
224 COSTA DR	James Smith
1131 S. Adams St. Chicago	Joe Smith
PO BOX 82 / ARLY	JOHN E. ELLER
1230 Second St. Apt. 2	Nick Cook
543 Hawthorne	Melinda C. C. C. C. C.
Belmont	Bernard
1500 GRAY	1924 Nestles Rd
Carlos pomposo	Guerrero
Leopoldo Zavaleta	
Scott R.	1655 MILITARY
Byron Williams	213 Ardennes
J. J.	too
Gustav	Kent Way
James Washington	Los Angeles
Joe Davis	
James Abney	
Victor Ramirez	24520 Calle E. Rosarito
	1996 Lincoln Ave

Shaneen	1190 Ord Grove Ave.
Sam Tob	Seaside
Anton Hunt	Seaside
David Jones	Seaside
CHARLES M. HINDURZAS	1252 CIRCLE AVE. SEASIDE
ISAIAH CANCIA	ON SEASIDE
Cesar Rangel	
Tom Moore	1706 LaSalle Ave
Richard Arreguin	
Rick Davis	1272 Soto
Michael Chappell	Everywhere
Paul Ward	1500 Soto
David Ant	5200 COCINA
Sam Guerrero Jr	1060 San Marino
Randy Lafferty	1860 Ord Grove
Roy ESPARZA	1036 LOST BARRICA
Andre Johnson	411 Grand Mariner
Anthony L.	PO Box 1291 Marina

Petition

Citizens of Seaside CA 93955

Vote for CateringFresh2U to operate as a BBQ business at 1949 Fremont Blvd as well as the support. We need a Great Business in Seaside.

Name.

Address

<i>Paul Walsh</i>	1420 ANTON ST Seaside
<i>Angie Lewis</i>	1852 Circle Ave
<i>Trinidad</i>	2086 Wenden St
<i>Don B</i>	1818 Wenden
<i>Chen Chen</i>	775 Sun Ave
JACOB LUTON	1149 AMADOR SS, CA
<i>Rachel Jimenez</i>	1531 Sun slope rd
<i>Robert K. Phelps</i>	1809 St. Helena
<i>Michael</i>	1297 Flores St
Jose Ortiz	1283 Playa Ave

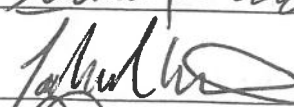
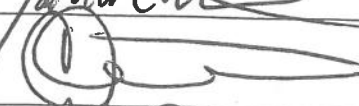
Petition

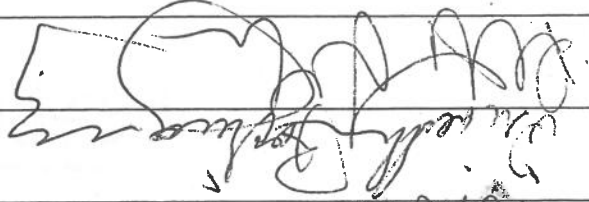
Citizens of Seaside CA 93955

Vote for CateringFresh2U to operate as a BBQ business at 1949 Fremont Blvd as well as the support. We need a Great Business in Seaside.

Name.

Address

	1782 DAWSON ST
Michelle Beardo	210 Algeria Rd.
	1008 Trinity
Denny Poole	475 AlBert Way
Jessie De La Rosa	Forty1 Monterey
	95 Sandipen Ct
Maria Paula Car	5100 Coe Ave
	5100 Coe Ave
	500 Coe Ave
	121 Holly St

941-982-3601	
831-383-5232	Michael Bascou
909 435 9053	Irene R. Padilla
831 383 4263	Matthew Hurley
831-890-4408	Alex Bascou
419-7537	Woody Bascou
1281 and 6000 Ave	Michael Bascou
Grove Area	Angie Lewis
1255 Circle Ave	Gene Stephenson
	Cody Moore
MOISES Dias	1819-1000 St
Don POWELL	1615 YOSEMITE ST
JOSE SORTO	
Juan Morales	1872 Tulson St
Eddie Bascou	775 La Purisima
Sophia Martin	5200 COE AVE
Michael Bascou	
MICHAEL BASCOU	4322 ORANGE AVE

Petition

Citizens of Seaside CA 93955

Vote for CateringFresh2U to operate as a BBQ business at 1949 Fremont Blvd as well as the support. We need a Great Business in Seaside.

Name.

Address

Justinly - Tran	1256 Fremont - Blvd (Lovely Nails) Seaside CA - 93955
Daneth Curbulw	1773 Union St Seaside, CA 93955
Ken Lee	1260 Fremont Blvd Seaside
Thuy Diem Dao	1137 Hilby Ave Seaside CA 93955 (Scissor Shack)
Kelly Le	1242 Fremont Blvd. Seaside CA 93955
Kim Wong	1857 Noche Buena Seaside CA 93955
Jessica Hernandez	1224 Fremont Blvd (Discomania)
Marisol Vasquez	933 Hilby ave #11 Seaside, CA 93955
Patrick Martinez	933 Hilby ave #B Seaside, CA 93955
Sarah Martinez	601 trinity ave. Seaside, CA 93955
Alondra Rodriguez	#5322 phoenix ave. #3 Seaside, CA 93955

[illegible]

Petition

Citizens of Seaside CA 93955

Vote for CateringFresh2U to operate as a BBQ business at 1949 Fremont Blvd as well as the support. We need a Great Business in Seaside.

Name.

Address

Rina Rempton	4 Valencia Court Seaside 93955
David Rempton	4 Valencia Ct. Seaside 93955
SYLVIA TUCKER	1252 Yosemite St SEASIDE CA 93955
Tom Mancini	8 Valencia Ct Seaside
Kathy Hendricks	1200 Ancel Ave
Larry Ann Smith	1072 Lorenzo Ct SEASIDE CA
Nadine Evans	1074 Lorenzo Ct Seaside
Seturko Yaponidi	1066 Lorenzo Ct Seaside
Melinda King	1046 Lorenzo Ct Seaside
Marlene E. Menasi	1036 Lorenzo Ct Seaside

ANNA HOFSCHEIER	1030 LORENZO CT.
William R. Kure	1031 Lorenzo Ct.
MICHAEL E. WOODS Michael E. Woods	1041 LORENZO CT
DALE WAGNER Dale Wagner	1051 LORENZO CT.
Emily Minnican	1096 Lorenzo Ct
VESENIA LUNA	214 NAPLES RD
Karla Navarro	912 Harcourt apt B.
Rosa Cano	1447 San pablo Ave. Seaside.
Galdy Carbalal	775 A Trinity Seaside
Maria Aguacino	775 A Trinity Seaside
Strouse Family	81333 Fremont Blvd. Seaside
Spencer Brisco C	1281 Fremont Blvd Seaside CA 93955
Tazmin Elorza	1280 Fremont Blvd Seaside Ca 93955
HOLLY SABLAIN	1276 FREMONT BLVD SEASIDE, CA 93955
Jose A. Finas	1276 FREMONT BLVD SEASIDE, CA 93955
Maria M	1266 Fremont
RAYMOND E. H	1260 FREMONT BLVD
Matilde Hernandez	1258 Fremont BLVD

Petition

Citizens of Seaside CA 93955

Vote for CateringFresh2U to operate as a BBQ business at 1949 Fremont Blvd as well as the support. We need a Great Business in Seaside.

Name.

Address

ZNKIQUEZ	6 Lopes Ct 95850
Luis Olivo	12360 Christen Rd
Juan Guillen	1179 Pel Norte Ave 95050
M LUCAS	800 Sand City
Manuel Torres	526 Palm Ave
Roberto	W San Pablo
Bobby	
Ang	LUZERN
David Bryant	1276 Green Ave Apt H
David Jones	Montenay 93940

Alexis Mijangas	5100 Ave #152
Willie Hamner	1190 02d GROVE 5 SGASide CA 93955
an Pua	1132 Pua Ave
Howard Miles	
Jim Hargrave	1495 Mira Mesa Ave
Juan Manuel Verde	1291 Playa Ave
Bill Thrasher	800 Scott Rd
Jandra L. Stoda	1647 Goodwin St, SEASIDE
Rudy Rodriguez	1602 Luzern St Seaside CA,
Fred Hardy	1779 Baker St
Philip Hargrave	1130 Clem
Kathy Caldwell	56 W. Bolivar St
Albert Bowers	160 Sierrade
Ut Chung	Ut Chung
Bernard	APT 5A 1466 YOUSSEF
Erol	5100 COE AVE #191 Seaside
Cidre Cuy	1460 Meser St
J. P. Chen	1124 Playa

Petition

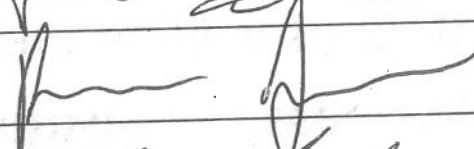
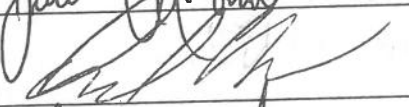
Citizens of Seaside CA 93955

Vote for CateringFresh2U to operate as a BBQ business at 1949 Fremont Blvd as well as the support. We need a Great Business in Seaside.

Name.

Address

Ken Henderson	#7 Seaside Ct
Low. HAYASHIDA	Tanta Cruz
Pat Quisen	Paradise Ave Seaside, CA.
Angel Castillo	831 Casanova ave.
Nicka Smith	1795 Ord Grove Ave
Derek Smith	1795 Ord Grove Ave
Mark Peters	1391 Ord Grove Ave
Jose Ochoa	66 Fiesta Way W,
Kathy Prescott	5100 Coe #83
Sammy Fitzgerald	5100 Coe #152

Megan Williams	1060 K 532
Chris Bar	4 Sandpiper Ct
Mike Chernitsky	1755 DEL Monte
	345 Hawthorne
	1060 Pajarillo
	1
Steph [unclear]	1478 Yosemite St Apt D.
Jose A Velasco	Joe and Debbie
Daniel Cortes	1738 Noche Buena
Carl Baker	
Said Pergrossi	420 McClellan Ave #8 Monterey, CA 93940
Yasser K. Zaid	PO Box 1375 Seaside, CA 93955
Rejean Ya Drouk	1494 Soto Ct Seaside
Diana Seminars	1112 Waring St. Seaside, CA 93955
Woodward [unclear]	
Kenneth Weller	1795 EVELYN ST SEASIDE 93955
Ann [unclear]	314 Mulheim Rd
	326 Hatten Rd
Mike [unclear]	1120 3rd St Monterey

Seaside Restaurant Owners

In Support

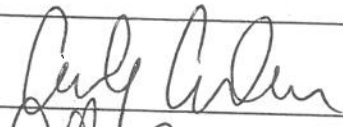
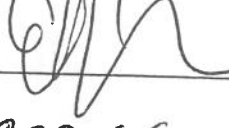
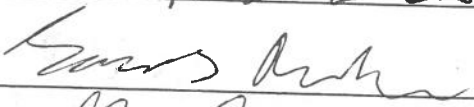
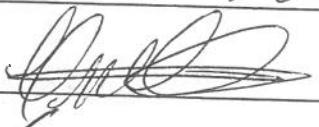
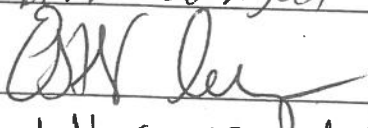
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Citizens of Seaside CA 93955

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Name.

Address

	1264 Noche Buena
 Esmeralda Guenara	1090 Fremont Blvd Burger King
CESAR GONZALEZ CESAR GUE	1107 Fremont Blvd Taveria Zapata
 Carlos Arlen	1130 Fremont Blvd. The Breakfast Club
	1142 Fremont Blvd Carlos Jr
SUSHI TIME	1153 FREMONT SEASIDE, CA
Filiberto Carbajal	1175 Fremont Seaside CA KFC
 BN Lee	5200 Coe Ave. Apt 1044
Elijah Vasquez Glych Vasquez	1257 Fremont Blvd Seaside, CA 93955
Luis Hector	1291 Fremont Blvd Seaside CA Zimathu Bakery and Deli

USSENIA LUNK	FOOT WIFE 781 TRINITY AVE SEASIDE CA
Armando Velazquez	711 1212 Fremont Seaside, CA 93955
Elaine Bibiana Torres	1349 Canyon Del Rey Blvd Seaside, CA 93955 Chili's
Chris Elser Chef	Emboss Suites 1441 Canyon Del Rey Seaside
Jennifer Alondra	1520 Del Monte Blvd Googie Seaside, California 93955 grill
Daniel Cruz	400 Palm Ave Seaside CA 93955 Tacos California Grill
Antonia Garcia	Maniscos Puerto Nuevo 580 Broadway Av Seaside
MARIA PRADO	417 Butany Rd Seaside CA Jack, Be
JASON BULLARD	1553 FREMONT BLVD #3 SEASIDE Buffalo Wildwings
Armando	880 Broadway ave MARIK PIZZA
Donte Smith	840 Broadway ave ERIK'S
Cassandra Valenzuela	840 Broadway ave BRIK'S Deli pen
Selene Reyes	Los Manos bar & Grill 732 Fremont BLV

Attachment 6

Written Communications

Bina + David Kempton
4 Valencia Court
Seaside, CA 93951
831-394-3274

Dear Honorable Mayor
and
City Council Members,

We highly recommend Jerry Amos Jr.
to bring his superb food truck
to Seaside. His products are
fresh and delightfully prepared.
He is reliable, responsible and
committed to his customers
and products. He will amp
up Seaside's image as folks
will travel for his creations.
Sincerely,
David & Bina Kempton
(30+ year residents)



CITY OF SEASIDE STAFF REPORT

Item No.: 9.B.

TO: City Council

FROM: Craig Malin, City Manager

BY: Lesley Milton-Rerig, Public Affairs Officer/City Clerk

DATE: May 16, 2019

**SUBJECT: ADOPTION OF AN ORDINANCE TO AMEND CHAPTER 2.14
BOARD AND COMMISSIONS TO EXPAND THE MEMBERSHIP OF
THE PARKS AND RECREATION COMMISSION AND THE
NEIGHBORHOOD IMPROVEMENT COMMISSION BY ADDING
ADDITIONAL MEMBERS AND TO CODIFY THE
ENVIRONMENTAL COMMITTEE AND COMMISSION ON THE
STATUS OF HOMELESSNESS (SECOND READING, ROLL CALL
VOTE)**

PURPOSE & RECOMMENDATION

Adopt draft Ordinance to expand the Parks and Recreation Commission and the Neighborhood Improvement Program and to codify the Environmental Commission and Commission on the Status of Homelessness into the Municipal Code.

BACKGROUND

Cities should strive at all possible times to make decisions with its residents, not merely for them. As the needs of a city change, so too should its Commissions to reflect the mission and vision. Over the last three years, at the request of residents, the City has been focusing its efforts on improving the quality of life for its residents including the renovation of parks.

The City of Seaside mission is "Include Innovate and Inspire" and keeping the element of inclusiveness, staff is recommending expanding the membership of the Park and Recreation Commission and the Neighborhood Improvement Commission to allow more resident input into the process for increased citizen representation. These positions have become very coveted, as they do not come open often and have the ability to be

very impactful.

This ordinance proposes to expand the membership of both committees by adding two additional positions to each, increasing membership from seven members to nine. All duties and objectives would remain unchanged.

Additionally, in 2018 the City Council approved the creation of the Environmental Committee as well as the Commission on the Status of Homelessness. Now that the committees are fully formed, their duties and responsibilities have been approved, the proposed ordinance would codify both committees, including the creation, composition, term and duties into the Municipal Code in perpetuity.

The draft ordinance was introduced at the May 2, 2019 Regular City Council meeting and there were no recommended changes. Staff recommends adopting the second reading of the draft ordinance as presented and to direct staff to codify the ordinance into the Municipal Code.

FISCAL IMPACT

The only fiscal impact associated with this item is the cost of codifying the ordinance, which will be less than \$500.

ATTACHMENTS

1. Draft Ordinance
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEASIDE AMEND CHAPTER 2.14 BOARD AND COMMISSIONS TO EXPAND THE MEMBERSHIP OF THE PARKS AND RECREATION COMMISSION AND THE NEIGHBORHOOD IMPROVEMENT COMMISSION AND TO CODIFY THE ENVIRONMENTAL COMMITTEE AND HOMELESS COMMITTEE

WHEREAS, Cities should strive at all possible times to make decisions with its residents, not merely for them; and

WHEREAS, As the needs of a city change, so too should its Commissions to reflect the mission and vision. Over the last three years, at the request of residents, the City has been focusing its efforts on improving the quality of life for its residents including the renovation of parks; and

WHEREAS, The City of Seaside mission is "Include, Innovate and Inspire" and keeping with the element of inclusiveness, staff is recommending expanding the membership of the Park and Recreation Commission and the Neighborhood Improvement Commission to allow more resident input into the process for increased citizen representation; and

WHEREAS, the City Council approved the creation of an Environmental Committee and The Commission on the Status of Homelessness and those committees now formed can be codified into the Municipal Code as commissions.

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

SECTION 1. Purpose and Intent

The purpose of this ordinance is to expand the membership of both the Neighborhood Improvement Commission and the Parks and Recreation Commission by adding two additional positions to each, increasing membership from seven members to nine. All duties and objectives would remain unchanged. Additionally, in 2018 the City Council approved the creation of the Environmental Committee as well as a Homeless Committee. Now that the committees are fully formed, their duties and responsibilities have been approved, the proposed ordinance would codify both committees, including the creation, composition, term and duties into the Municipal Code in perpetuity.

SECTION 2. Revisions to Chapter 2.

SMC 2.24 NEIGHBORHOOD IMPROVEMENT COMMISSION

2.24.020 Compensation and Terms of Office

The commission shall consist of ~~seven~~ **nine** members. The appointed members shall hold office for three years. (Ord. 1055 § 3, 2018; Ord. 773§ 1 (Exh. A), 1990)

Chapter 2.28 RECREATION AND PARK COMMISSION

2.28.020 Composition and Terms of Office.

The recreation and park commission shall consist of ~~seven~~ **nine** regular members. The appointed members of the commission shall hold office for three years. (Ord. 971 § 2, 2008; Ord. 887 § 2, 2000; Ord. 773 § 1 (Exh. A), 1990)

SECTION 3. Additions to Chapter 2.

SMC 2.19 ENVIRONMENTAL COMMISSION

2.19.010 Created.

2.19.020 Composition and terms of office.

2.19.030 Duties.

2.19.040 Objectives.

2.19.010 Created

The Environmental Committee investigates and advocates sound environmental policy and action in the areas of air quality, water quality, energy and waste management, flora and fauna protection and community planning.

2.19.020 Composition and Terms of Office

The Environmental Committee shall have nine voting members, appointed by the City Council for a term of three years. Residents of Seaside or professionals, scholars or students in any

related field of the environmental sciences are eligible to serve as members. At least one high school student residing in Seaside and at least one student at CSUMB or MPC shall be appointed as a full voting member. A City Council member shall be appointed by the City Council as a non-voting member.

2.19.030 Duties.

The Environmental Committee shall conduct public meetings and prepare recommendations to the City Council on matters regarding the environment to include without limitation unless otherwise noted:

- A. Review and comment on City ordinances, policies and programs and state mandates relate to environmental regulations, risks and pollution abatement, clean water, air and energy, flora, fauna and biome protection and community planning topics expressly beyond the realm of the Planning Commission.
- B. Serve in advisory capacity to the City Council, commissions, committees, and boards on related issues
- C. Identify strategic environmental goals for the City and estimate resources needed to accomplish these goals; investigate funding to implement programs to benefit the community
- D. Develop policies and plans for increasing environmental awareness in cooperation with other public and private agencies to include school districts

2.19.040 Objectives.

- A. The Environmental Committee shall meet not less than six times per year.
- B. The Environmental Committee shall monitor the City's progress in complying with principles established in Resolution 17-47.
- C. The Environmental Committee shall prepare an annual recommended work plan to the City Council not later than three months in advance of each fiscal year.

SMC 2.20 COMMISSION ON THE STATUS OF HOMELESSNESS

2.20.010 Created.

2.20.020 Composition and terms of office.

2.20.030 Duties.

2.20.040 Objectives.

2.20.020 Composition and terms of office.

The Commission on the Status of Homelessness shall consist of seven appointed voting members and one, non-voting City Council member, all appointed by the City Council. Voting members shall hold office for three years.

2.20.030 Duties.

The Commission on the Status of Homelessness shall have the power, and it shall be the duty of the commission to make recommendations to the City Council and to advise the Council in the following matters:

- A. Review and comment on City ordinances, programs and policies and state mandates related to housing, CDBG grants and programs, and other poverty mitigation programs;
- B. Monitor and assist the City's progress in implementing needed homeless services and facilities;
- C. Develop policy recommendations and processes to measure the effectiveness of new and existing policies in ending and preventing homelessness and coordinate with the CDAC for their required reporting in the HUD mandated Annual Action Report;
- D. Identify strategic goals for the City and estimate resources needed to accomplish these goals; investigate funding to implement programs to benefit the homeless community.
- E. Identify partnerships with County, City and other community programs that can be leveraged to achieve the goals of ending or preventing homelessness in the City of Seaside.

2.20.040 Objectives.

The commission on the status of homelessness shall:

- A. Hold public meetings on matters related to homelessness;
- B. Investigate best and contemporary practices with regard to eliminating and preventing homelessness;
- C. Serve in advisory capacity to the City Council, commissions, committees, and boards on related issues;
- D. Prepare an annual report to the City Council on progress and effectiveness of various programs and policies.

19.11.010. Severability. If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.”

SECTION 3. Effective date. This Ordinance shall take effect thirty (3) days after its final passage and adoption by the Council.

INTRODUCED AND PASSED TO PRINT at a regular meeting of the City Council of the City of Seaside held on ____, 2019.

ADOPTED as an Ordinance of the City Council of the City of Seaside at a regular meeting of the City Council held on _____ 2019, by the following vote:

Ayes:	Council members:
Noes:	Council members:
Absent:	Council members:
Abstain:	Council members:

Ian Oglesby, Mayor

Attest:

Lesley Milton-Rerig, City Clerk



CITY OF SEASIDE STAFF REPORT

Item No.: 10.A.

TO: City Council

BY: Craig Malin, City Manager

DATE: May 16, 2019

SUBJECT: ADOPT A RESOLUTION ENDORSING ASSEMBLY BILL 392: AN ACT TO AMEND SECTIONS 196 AND 835a OF THE PENAL CODE, RELATING TO THE USE OF FORCE BY PEACE OFFICERS

PURPOSE & RECOMMENDATION

Discuss adoption of a resolution of support for Assembly Bill 392.

BACKGROUND

Assembly Bill 392 would amend the California Penal Code to redefine the circumstances under which a homicide by a peace officer is deemed justifiable from being a reasonable use of force to being a necessary use of force.

AB392 proponents argue the redefinition is necessary to reduce unjustifiable uses of force by peace officers and stress de-escalation and non-lethal resolutions of police / citizen encounters. Detractors of AB392 argue current law surrounding use of force is adequate and the redefinition may have adverse consequences including introducing uncertainty into high stress police / citizen encounters that may cause police officers to fail to react in time to save lives, as well as increase liability for public agencies employing peace officers.

As California Police Chief Association Region 9 representative, Chief Pridgen opposes AB392. The Seaside Police Officer's Association strongly opposes AB392.

As a pending policy matter at the state level, individual Councilmembers could both consider the impact of AB392 on City operations and community engagement. From an operational perspective, AB392 brings the potential of increased liability and cost. From a community engagement perspective, viewpoints on AB392 will vary.

ATTACHMENTS

1. AB392 Legislative Counsel's Digest

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

AMENDED IN ASSEMBLY MARCH 27, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 392

Introduced by Assembly Members Weber and McCarty
(Principal coauthor: Assembly Member Holden)
(Principal coauthors: Senators Bradford and Mitchell)
(~~Coauthor:~~ Coauthors: Assembly Member Members Medina and
Mark Stone)

February 6, 2019

An act to amend Sections 196 and 835a of the Penal Code, relating to peace officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 392, as amended, Weber. Peace officers: deadly force.

Existing law authorizes a peace officer to make an arrest pursuant to a warrant or based upon probable cause, as specified. Under existing law, an arrest is made by the actual restraint of the person or by submission to the custody of the arresting officer.

Existing law authorizes a peace officer to use reasonable force to effect the arrest, to prevent escape, or to overcome resistance. Existing law does not require an officer to retreat or desist from an attempt to make an arrest because of resistance or threatened resistance of the person being arrested.

Under existing law, a homicide committed by a peace officer is justifiable when necessarily committed in arresting a person who has committed a felony and the person is fleeing or resisting such arrest.

Existing case law deems such a homicide to be a seizure under the Fourth Amendment of the Constitution of the United States, and as such, requires the actions to be reasonable.

This bill would redefine the circumstances under which a homicide by a peace officer is deemed justifiable to include when the killing is in self-defense or the defense of another, consistent with the existing legal standard for self-defense, or when the killing is necessary to prevent the escape of a fleeing felon whose immediate apprehension is necessary to prevent death or serious injury. The bill would additionally bar the use of this defense if the peace officer acted in a criminally negligent manner that caused the death, including if the officer's criminally negligent actions created the necessity for the use of deadly force.

The bill would also affirmatively prescribe the circumstances under which a peace officer is authorized to use deadly force to effect an arrest, to prevent escape or to overcome resistance.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 196 of the Penal Code is amended to
- 2 read:
- 3 196. (a) Homicide is justifiable when committed by peace
- 4 officers and those acting by their command in their aid and
- 5 assistance, under any of the following circumstances:
- 6 (1) In obedience to any judgment of a competent court.
- 7 (2) When the homicide results from a peace officer's use of
- 8 force, other than deadly force, that is in compliance with
- 9 subdivision (b) of Section 835a.
- 10 (3) When, except as otherwise provided in subdivision ~~(b)~~, (c),
- 11 the homicide would be justifiable pursuant to Section 197, in
- 12 self-defense or the defense of another person.
- 13 (4) When, subject to subdivision ~~(b)~~, (c), the officer reasonably
- 14 believes, based on the totality of the circumstances, that the use
- 15 of force resulting in a homicide is necessary to prevent the escape
- 16 of a person, and all of the following are true:
- 17 (A) The peace officer reasonably believes that the person has
- 18 committed, or has attempted to commit, a felony involving the use
- 19 or threatened use of deadly force.
- 20 (B) The peace officer reasonably believes that the person will
- 21 cause death or inflict serious bodily injury to another unless
- 22 immediately apprehended.

1 (C) If feasible, the peace officer has identified themselves as a
2 peace officer and given a warning that deadly force may be used
3 unless the person ceases flight, unless the officer has reasonable
4 ground to believe the person is aware of these facts.

5 (b) As used in paragraph (4) of subdivision (a), “necessary”
6 means that, given the totality of the circumstances, an objectively
7 reasonable peace officer in the same situation would conclude that
8 there was no reasonable alternative to the use of deadly force that
9 would prevent death or serious bodily injury to the peace officer
10 or to another person. The totality of the circumstances means all
11 facts known to the peace officer at the time and includes the tactical
12 conduct and decisions of the officer leading up to the use of deadly
13 force.

14 (c) Neither this section nor Section 197 provide a peace officer
15 with a defense to manslaughter in violation of Section 192, if that
16 person was killed due to the criminally negligent conduct of the
17 officer, including situations in which the victim is a person other
18 than the person that the peace officer was seeking to arrest, retain
19 in custody, or defend against, or if the necessity for the use of
20 deadly force was created by the peace officer’s criminal negligence.

21 SEC. 2. Section 835a of the Penal Code is amended to read:

22 835a. (a) The Legislature finds and declares all of the
23 following:

24 (1) That the authority to use physical force, conferred on peace
25 officers by this section, is a serious responsibility that shall be
26 exercised judiciously and with respect for human rights and dignity
27 and for the sanctity of every human life. The Legislature further
28 finds and declares that every person has a right to be free from
29 excessive use of force by officers acting under color of law.

30 (2) That the decision by a peace officer to use force shall be
31 evaluated carefully and thoroughly, in a manner that reflects the
32 gravity of that authority and the serious consequences of the use
33 of force by peace officers, in order to ensure that officers use force
34 consistent with law and agency policies.

35 (3) That the decision by a peace officer to use force shall be
36 evaluated from the perspective of a reasonable officer in the same
37 situation, based on the totality of the circumstances known to or
38 perceived by the officer at the time, rather than with the benefit of
39 hindsight, and that the totality of the circumstances shall account

1 for occasions when officers may be forced to make quick
2 judgments about using force.

3 *(4) That individuals with physical, mental health, developmental,*
4 *or intellectual disabilities are significantly more likely to*
5 *experience greater levels of physical force during police*
6 *interactions, as their disability may affect their ability to*
7 *understand or comply with commands from peace officers. It is*
8 *estimated that individuals with disabilities are involved in between*
9 *one-third and one-half of all fatal encounters with law enforcement.*

10 (b) Any peace officer who has reasonable cause to believe that
11 the person to be arrested has committed a public offense may use
12 reasonable force, other than deadly force, to effect the arrest, to
13 prevent escape or to overcome resistance.

14 (c) A peace officer who makes or attempts to make an arrest
15 need not abandon or desist from the arrest by reason of the
16 resistance or threatened resistance of the person being arrested. A
17 peace officer shall not be deemed an aggressor or lose the right to
18 self-defense by the use of reasonable force to effect the arrest or
19 to prevent escape or to overcome resistance. A peace officer shall,
20 however, attempt to control an incident through sound tactics,
21 including the use of time, distance, communications, tactical
22 repositioning, and available resources, in an effort to reduce or
23 avoid the need to use force whenever it is safe, feasible, and
24 reasonable to do so. This subdivision does not conflict with the
25 limitations on the use of deadly force set forth in this section or
26 Section 196.

27 (d) (1) A peace officer is justified in using deadly force upon
28 another person only when the officer reasonably believes, based
29 on the totality of the circumstances, that such force is necessary
30 for either of the following reasons:

31 (A) To defend against a threat of imminent death or serious
32 bodily injury to the officer or to another person.

33 (B) To prevent the escape of a fleeing suspect consistent with
34 paragraph (4) of subdivision (a) of Section 196.

35 (2) A peace officer shall not use deadly force against a person
36 based on the danger that person poses to themselves, if the person
37 does not pose an imminent threat of death or serious bodily injury
38 to the peace officer or to another person.

39 (3) This subdivision does not provide the legal standard and
40 shall not be used in any criminal proceeding against a peace officer

1 relating to the use of force by that peace officer, or to any defenses
2 to criminal charges under Sections 196 or 197 or any other defense
3 asserted by that officer, but may be used in any civil or
4 administrative proceeding.

5 (e) For purposes of this section, the following definitions shall
6 apply:

7 (1) “Deadly force” means any use of force that creates a
8 substantial risk of causing death or serious bodily injury, including,
9 but not limited to, the discharge of a firearm.

10 (2) A threat of death or serious bodily injury is “imminent”
11 when, based on the totality of the circumstances, a reasonable
12 officer in the same situation would believe that a person has the
13 present ability, opportunity, and apparent intent to immediately
14 cause death or serious bodily injury to the peace officer or another
15 person. An imminent harm is not merely a fear of future harm, no
16 matter how great the fear and no matter how great the likelihood
17 of the harm, but is one that, from appearances, must be instantly
18 confronted and addressed.

19 (3) “Necessary” means that, given the totality of the
20 circumstances, an objectively reasonable peace officer in the same
21 situation would conclude that there was no reasonable alternative
22 to the use of deadly force that would prevent death or serious bodily
23 injury to the peace officer or to another person.

24 (4) “Totality of the circumstances” means all facts known to
25 the peace officer at the time and includes the tactical conduct and
26 decisions of the officer leading up to the use of deadly force.

O