



"The City With a Heart"

Jim Ruane, Mayor
Michael Salazar, Vice Mayor
Ken Ibarra, Councilmember
Rico E. Medina, Councilmember
Irene O'Connell, Councilmember

AGENDA - SPECIAL MEETING CLOSED SESSION

SAN BRUNO CITY COUNCIL

May 26, 2015

6:00 p.m.

Meeting Location: San Bruno Senior Center, 1555 Crystal Springs Road, San Bruno, CA

City Council meetings are conducted in accordance with Roberts Rules of Order Newly Revised and City Council Rules of Procedure. You may address any agenda item by standing at the microphone until recognized by the Council. All regular Council meetings are recorded and televised on CATV Channel 1 and replayed the following Thursday, at 2:00 pm. You may listen to recordings in the City Clerk's Office, purchase CD's, access our web site at www.sanbruno.ca.gov or check out copies at the Library. We welcome your participation. In compliance with the Americans with Disabilities Act, individuals requiring reasonable accommodations or appropriate alternative formats for notices, agendas and records for this meeting should notify us 48 hours prior to meeting. Please call the City Clerk's Office 650-616-7058.

1. CALL TO ORDER:

2. ROLL CALL:

3. PUBLIC COMMENT ON ITEMS NOT ON AGENDA: Individuals allowed three minutes, groups in attendance, five minutes. If you are unable to remain at the meeting, ask the City Clerk to request that the Council consider your comments earlier. It is the Council's policy to refer matters raised in this forum to staff for investigation and/or action where appropriate. The Brown Act prohibits the Council from discussing or acting upon any matter not agendized pursuant to State Law.

4. CLOSED SESSION:

Conference with Legal Counsel, Anticipated Litigation, Initiation of Litigation pursuant to Government Code section 54956.9(d)(4): One Case.

5. ADJOURNMENT:

The next regular City Council Meeting will be held on May 26, 2015 at 7:00 p.m. at the Senior Center, 1555 Crystal Springs Road, San Bruno.



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Thank the **San Bruno Garden Club** for providing the beautiful floral arrangement.

1. CALL TO ORDER:

2. ROLL CALL/PLEDGE OF ALLEGIANCE:

3. ANNOUNCEMENTS:

- a. The 75th Annual Posy Parade will take place on Sunday, June 7 at 1:00 p.m.
- b. The San Bruno Community Foundation is conducting community outreach to gather input on community needs and interests. The Foundation is hosting Town Hall meetings on May 28 at Bell Air School and on June 3 at the San Bruno Senior Center beginning at 6:30 p.m.
- c. The San Bruno City Council will be holding Budget Study Sessions on June 8 and 10, beginning at 5:30 p.m. at San Bruno City Hall, 567 El Camino Real, San Bruno, CA.

4. PRESENTATIONS:

5. REVIEW OF AGENDA:

6. APPROVAL OF MINUTES: Regular Council Meeting of May 12, 2015.

7. CONSENT CALENDAR: All items are considered routine or implement an earlier Council action and may be enacted by one motion; there will be no separate discussion unless requested by a Councilmember or staff.

- a. **Approve:** Accounts Payable of May 11 and 18, 2015.
- b. **Approve:** Payroll of May 8, 2015.
- c. **Accept:** Reconciliation of the General Ledger to the Bank Report and the Monthly Investment Report, Dated April 30, 2015.
- d. **Waive:** Second Reading and Adopt Ordinance Imposing a 1.652% Rate Increase for Recology San Bruno Garbage and Recycling Services to be Effective July 1, 2015.
- e. **Waive:** Second Reading, and Adopt an Ordinance Amending Chapter 8.24, Section 8.24.200 of the San Bruno Municipal Code Relating to Private Sewer Laterals.

- f. **Adopt:** Resolution Authorizing the City Manager to Execute an Agreement with Turbo Data Systems, Inc. for Parking Citation Processing and Adjudicating Services for a Five (5) Year Term Expiring June 30, 2020.
- g. **Adopt:** Resolution Accepting the Sidewalk Repair Project as Complete, Authorizing the Filing of a Notice of Completion with the San Mateo County Recorder's Office, and Authorizing Release of the Construction Contract Retention in the Amount of \$17,867.

8. PUBLIC HEARING:

Hold Public Hearing, Adopt Resolution Amending the General Plan to Allow Emergency Shelters for the Homeless in the Industrial Land Use Classification and Waive First Reading and Introduce Ordinance Adding Provisions to the San Bruno Municipal Code Related to Emergency Shelters for the Homeless and Amending the Zoning Map of the San Bruno Municipal Code Identifying an Emergency Shelter Overlay District.

- 9. PUBLIC COMMENT ON ITEMS NOT ON AGENDA:** Individuals allowed three minutes, groups in attendance, five minutes. If you are unable to remain at the meeting, ask the City Clerk to request that the Council consider your comments earlier. It is the Council's policy to refer matters raised in this forum to staff for investigation and/or action where appropriate. The Brown Act prohibits the Council from discussing or acting upon any matter not agendized pursuant to State Law.

10. CONDUCT OF BUSINESS:

- a. Adopt Resolution Submitting a Measure to the Voters of San Bruno at the November 3, 2015 General Municipal Election to Determine Whether the Positions of City Clerk and City Treasurer Should be Changed from Elected to Appointive; Directing the City Attorney to Prepare an Impartial Analysis of Said Measure; and Authorizing Submission of Ballot Arguments Supporting the Measure on Behalf of the City Council.
- b. Receive Staff Report and Consider Ordinance Repealing Chapter 4.40 (Massage Establishments) and Enacting New Chapter 4.40 (Massage Businesses.)
- c. Adopt Resolution Authorizing the City Manager to Execute a Contract with Moffatt & Nichol to Provide Technical Assistance for the FEMA San Francisco Bay Coastal Study in the Amount of \$25,160 and Appropriating Funds in this Amount from the General Fund.
- d. Authorize the City Manager to Enter Into a Second Exclusive Negotiating Rights Agreement with OTO Development, LLC.

11. REPORT OF COMMISSIONS, BOARDS, & COMMITTEES:

12. COMMENTS FROM COUNCIL MEMBERS:

13. CLOSED SESSION:

14. ADJOURNMENT:

The next regular City Council Meeting will be held on June 9, 2015 at 7:00 p.m. at the Senior Center, 1555 Crystal Springs Road, San Bruno.



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MINUTES SAN BRUNO CITY COUNCIL

May 12, 2015

7:00 p.m.

1. CALL TO ORDER: THIS IS TO CERTIFY THAT the San Bruno City Council met on May 12, 2015 at San Bruno's Senior Center, 1555 Crystal Springs Road, San Bruno, CA. The meeting was called to order at 7:00 p.m. **Mayor Ruane** thanked the San Bruno Garden Club for the flowers.

2. ROLL CALL/PLEDGE OF ALLEGIANCE:

Presiding was Mayor Ruane, Vice Mayor Salazar, Councilmembers Ibarra, Medina and O'Connell. **Tom Mohr** led the Pledge of Allegiance. Recording by City Clerk Bonner.

3. ANNOUNCEMENTS:

a. **Mayor Ruane** said the 75th Annual Posy Parade will take place on Sunday, June 7, 2015 at 1:00 p.m to include City Parkway for a car show and lots of events. He said on the same day from 8:30 a.m. to 11:30 a.m. the Fire Department on El Camino Real is having their pancake breakfast with proceeds going to the Burn Foundation.

b. **Mayor Ruane** said the Bay Area's 21st Annual Bike to Work Day will be on Thursday, May 14, 2015.

c. **Mayor Ruane** announced the San Bruno Community Foundation is initiating community outreach to gather input on community needs and interests. The Foundation is hosting Town Hall meetings on May 28 at Belle Air School and June 3 at the San Bruno Senior Center beginning at 6:30 p.m.

4. PRESENTATIONS:

a. **Mayor Ruane** Presented a Proclamation Declaring May 17-23, as Public Works Week in San Bruno to **Public Services Deputy Director Burch** who thanked the City and gave highlights/background on what the department does. He invited everyone to come to the open house they will be holding on Thursday, May 21 at the Corporation Yard.

b. **Mayor Ruane** Presented a Proclamation Declaring May 10-16, as National Police Week in San Bruno to **Police Chief Barberini** who thanked the City and reminded everyone of Police Day at the Tanforan Mall from 10:00 a.m. to 9:00 p.m. with canine demonstrations.

c. **Mayor Ruane** said we will Receive a Presentation from Police Chief Barberini on Fraud Awareness and Prevention.

Police Chief Barberini gave a presentation on how people can avoid being a victim of a scam. He gave several examples of how scams are done and some of the language used. He stressed to always be suspicious.

5. REVIEW OF AGENDA: No changes.

6. APPROVAL OF MINUTES: Regular Council Meeting of April 28, 2015, approved as submitted.

7. CONSENT CALENDAR: All items are considered routine or implement an earlier Council action and may be enacted by one motion; there will be no separate discussion unless requested by a Councilmember or staff.

a. **Approve:** Accounts Payable of April 27 and May 4, 2015.

b. **Approve:** Payroll of April 24, 2015.

c. **Adopt:** Resolution Authorizing Temporary Closure of Certain Streets Including City Park Way Between Crystal Springs Road and Desoto Way in Connection with the 75th Annual Posy Parade, on Sunday, June 7, 2015 between the Hours of 11:00 a.m. and 5:00 p.m. and Authorizing Use of City Park Ball Fields and Police Department Assistance with Traffic Control of 1,200 Linear Feet of City Park Way between Crystal Springs Road and DeSoto Way for the Lions Club Annual Posy Parade.

Councilmember Ibarra asked to pull Item 7c.

M/S Medina/Ibarra to approve Consent Items 7.a. and 7.b. and passed with all ayes.

Councilmember Ibarra said the 75th annual posy parade will be expanded to City Parkway which will be closed from 11:00 a.m. to 5:00 p.m. The Lions' Club is proposing to move some of the activities toward the Recreation Center and provide a car show along the parking area of City Parkway. He said there will be plenty of signage.

Councilmember Medina asked how the public will know about the road being closed.

Community Services Director Burns said they have informed residents along the way of tonight's Council action. She said based on Council's determination, letters will be sent out.

Councilmember Ibarra said **Diamond Jubilee** is the theme of this year's parade and fliers have been posted everywhere.

M/S Ibarra/Medina to approve Item c. and passed with a unanimous vote

8. PUBLIC HEARING:

a. Hold Public Hearing, Waive First Reading, and Introduce an Ordinance as Presented in the Notice of Proposed Garbage and Organic Program Rate Increase Mailed to all Property Owners Imposing a 1.652% Rate Increase for Recology San Bruno Garbage and Recycling Services to be effective July 1, 2015.

Finance Director Kraecht gave an overview of the staff report and asked for questions.

Mayor Ruane opened the Public Hearing. No one wished to speak.

M/S Medina/Ibarra to close the public hearing and passed with all ayes.

Councilmember Ibarra said it seems like there is an increase every year and asked **Kirsten Pinnochi** to give an explanation of the annual increase.

Pinnochi said their rate analysis is done every year by their controller. She said recology is entitled to an overall general allowance to cover increased costs that go up throughout the year that they are allowed to recoup annually every year. She said next year will be their interim rate year where they look at their costs more closely and provide the City with a more detailed analysis at that time. **Councilmember Ibarra** asked if it has ever gone down, **Pinnochi** said in her ten years she has never seen it decrease.

Kraecht said Recology had reached out to some of those citizens who sent in written responses to offer the 20 gallon toter.

Medina said in reading the responses, a lot of people said they were recycling, they have very little waste. He said since it is a State law, we have to have weekly pick-ups and it is not in our power to forego the pick-ups. **Pinnochi** said they receive all the protest letters and do reach out to those individuals who recycle and compost and offer them 20 gallon totes. **Councilmember Ibarra** said the cost of a 20 gallon tote is \$6.33 less each month which could be a significant savings.

Vice Mayor Salazar said an individual asked for a smaller grey bin and was told it was not available. **Pinnochi** said they are generally available and they are 32 gallon totes intended mostly for narrow alleyways as well as the elderly.

M/S Ibarra/Medina to waive the first reading and passed with all ayes.

Councilmember Ibarra introduced the ordinance for adoption and passed with a unanimous vote.

b. Hold Public Hearing, Waive First Reading, and Introduce an Ordinance Amending Chapter 8.24, Section 8.24.200 of the San Bruno Municipal Code Relating to Private Sewer Laterals.

City Attorney Zafferano gave a summary of the staff report and asked for questions.

Councilmember Ibarra said those who have a City-approved clean-out have had the advantage of possibly having a lower lateral repair at the City's expense. He questioned the 25% and said it has been a requirement for any specific type of home improvement to install a clean-out at the property line. What is going to happen now, is the City going to require these cleanouts during various projects. **Zafferano** said it has always been advantageous for the homeowner to install a clean-out under the old policy as well as the new policy they will continue to receive the maintenance services. **Deputy Director Burch** said when any work is done it should be recommended that clean-outs be required. **City Manager Jackson** said they could get the information requested.

Mayor Ruane opened the public hearing.

Perry Peterson, Scenic Ct. asked this be postponed until the next meeting so the City Manager can get the information asked for. A vote for this ordinance is to deny this benefit that citizens have been enjoying since 1986 and can remain in place simply by adjusting the amount per month. A vote against this ordinance would leave the benefit in place and give the opportunity to consider in more depth the value of it.

Russ Steins, Reid Ave. said he didn't have a proper clean-out and he didn't believe 25% of the people should be forgotten. He asked how many cities on the peninsula put the sewer lateral on the residence from their property line into the street. He understood San Bruno has the second highest rate in the County.

Mayor Ruane asked how many cities have this ordinance. **Burch** said last year there was a white paper study done. He said our program is kind of modeled after Daly City and in talking to the State many agencies are attempting to do this program. He said he did not have the numbers off the top of his head but there was a pretty extensive report presented to the Council last spring.

Councilmember Ibarra said in his research, Redwood City clearly stated the lateral from the property line to the main in the streets is the City's responsibility. San Carlos says the City owns the lower lateral. The City of Millbrae adopted an ordinance last October to state they are still responsible for the lower lateral. He said in his short study, he found three cities in our County who clearly stated that lower laterals were their responsibility.

Vice Mayor Salazar said he also looked into what other cities do and by looking a little deeper, he found how their laterals were set-up and those cities that did take ownership of the lower laterals require (in most cases) a clean-out, also a certification of a lower lateral. He felt this is something we could look into.

Jim Evangelist, DeSoto Way said our program, while unique in the Bay Area, it is not throughout the country. He said there are many communities throughout the country who are suffering under a cease and desist order like our City has done for twenty years. He asked the City not give up the lower lateral maintenance because it puts them in greater jeopardy.

Vice Mayor Salazar asked for clarification on the vote they took last month to repeal the ordinance that says the City took ownership and the action today is only to implement the piece that says we will continue the maintenance. **Zafferano** concurred. Discussion continued regarding the consequences of not approving tonight.

Councilmember O'Connell said someone had suggested not taking a vote tonight and she reminded everyone they have been looking at this for a year. To her recollection, this is the longest Council has ever studied anything and she believed due diligence has been done. She said only one thing is being changed. Everyone has emergency services. She said if you have maintenance now you will still get it. She said what is changing is the replacement or repair of lower sewer laterals and only if you have a City-approved clean-out.

M/S O'Connell/Salazar to close the public hearing and passed with all ayes.

Vice Mayor Salazar asked what we are doing about laterals. Are there funds dedicated to invest in laterals. **City Manager Jackson** said there will continue to be funds that come from the rates that will address emergency services and the regular maintenance program. What will not be provided is the replacement/repair of laterals that need to be rehabilitated? The other funds are those dedicated to the program in the Sharp Park Basin. Discussion and clarification continued regarding the laterals between City Manager Jackson, Vice Mayor Salazar and Burch.

Councilmember Ibarra said we are providing a service to no longer providing the service. He said we are reacting to a rising budget.

Vice Mayor Salazar asked if this could be rewritten so there is an idea of what that would cost which **Councilmember Ibarra** agreed should be looked at.

Councilmember Ibarra said he believed an incentive program should be put in place so the homeowner knows we want them to have a clean-out and be aware of the condition of their sewer laterals. He said they needed to be educated. **Mayor Ruane** said the majority of this City is already responsible from the line right out to the street. He said this is a step going forward.

Vice Mayor Salazar attempted to unify the decision to be made on the dias. He said Redwood City and South San Francisco take ownership of lower laterals only after inspection but the burden of having maintenance ready laterals is put on the homeowner. **Councilmember Medina** said it should come back.

M/S O'Connell/Salazar to waive the first reading and passed with all ayes.

Councilmember O'Connell introduced the ordinance for adoption and passed with three ayes, Councilmembers O'Connell and Salazar and Mayor Ruane; two no's, Councilmembers Ibarra and Medina.

Vice Mayor Salazar asked as a follow-up, should something go back to the sub-committee or do you want to hear something from staff.

Councilmember Medina asked questions be answered such as what other cities and agencies offer. How can we have a proactive approach to some laterals? He said we do want to make a difference but at the same time we need to be engaged and involved.

Mayor Ruane said staff will come back to firm up the responsibility or non-responsibility of the homeowner in the lateral program we have.

City Manager Jackson in a recap, asked what do other cities do; some information and strategies to make our program as proactive as possible. **Councilmember Ibarra** asked how other cities have addressed private property and how they developed those programs. **Councilmember Medina** asked that they talk about what can work and what will work. He talked about San Mateo's program and every time they offer it, lots of folks come out. **Vice Mayor Salazar** said another interesting data point would be whether those cities have a master plan, if they are addressing private laterals in that.

City Manager Jackson said there is an item on the May 26th agenda that would take the second action on the ordinance. She said the questions raised tonight will be addressed at the meeting on June 9.

9. PUBLIC COMMENT ON ITEMS NOT ON AGENDA:

Robert Riechel, 7th Ave. said the District has detected a positive bird in Redwood City. Currently there are no plans to fog. Dump all standing water. If you find a dead bird or squirrel, call 1-877-WNV-BIRD.

Russ Stines, Reid Ave. said this is the third year on the 10% raise on our water bills and sewer systems for our new water and sewer system, he asked how far along are we and how much have we actually done.

10. CONDUCT OF BUSINESS:

a. Receive Quarterly Financial Report as of March 31, 2015 for the 2014-15 General Fund, Special Revenue Funds, Enterprise Funds, and Internal Service Funds Budget and Adopt Resolution Approving the Third Quarter Budget Amendment for FY 2014-15 General Fund, Self Insurance Fund, Wastewater Fund, and Water Fund Budgets.

Finance Director Kraecht gave an overview of the staff report in a powerpoint presentation and asked for questions.

Councilmember Ibarra commented things are looking good. He asked about the forecast.

Kraecht said they are expecting an overall increase in 2015-16 of 6%.

Councilmember Medina said he appreciated the adjustments and keeping it current.

Councilmember Ibarra introduced the resolution for adoption and passed with a unanimous vote.

b. Adopt Resolution Authorizing the City Manager to Execute a Contract with Stantec for Design Services for the Lower San Bruno Avenue Medians Project in an Amount Not to Exceed \$83,946 and Appropriating \$24,500 from Gas Tax and \$42,500 from Measure A funds.

Associate Engineer Anderson gave an overview in a powerpoint presentation and asked for questions.

Councilmember Ibarra said he was surprised to see we are dealing with structural engineers when he was on the sub-committee, they were dealing with Calendar & Associates, an architectural firm. **Anderson** said the landscape design is prepared by Calendar. What is being added to the mix are the pedestrian improvements such as the access ramps and possible modifications to the traffic signals. The landscape was including in the previous median phase project.

Councilmember Ibarra said the median strip from El Camino to Elm doesn't look good. He also asked about the median under 280, it has red lava rock and he would like that addressed.

Councilmember Medina said he hoped we are using our staff as a resource. He said whatever is put in is cost effective.

Councilmember Ibarra introduced the resolution for adoption and passed with a unanimous vote.

11. REPORT OF COMMISSIONS, BOARDS, & COMMITTEES:

12. COMMENTS FROM COUNCIL MEMBERS:

Councilmember Ibarra said back in October 22, 2013 he asked the Traffic, Safety and Parking Committee look at parking along San Mateo Avenue. He said he was not aware of anything that was taken on by the Committee and he restated that and additionally he would like the TSPC to look at parking along Hermann street and revisit the tight parking in the first couple of blocks of Jenevein.

Councilmember O'Connell thanked a lot of people for their participation and setting up of Operation Clean Sweep that took place on May 2.

13. CLOSED SESSION:

14. ADJOURNMENT:

Mayor Ruane closed the meeting at 8:40 p.m. The next regular City Council Meeting will be held on May 26, 2015 at 7:00 p.m. at the Senior Center, 1555 Crystal Springs Road, San Bruno.

Respectfully submitted for approval
at the City Council Meeting of
May 26, 2015

Carol Bonner, City Clerk

Jim Ruane, Mayor

05/11/15

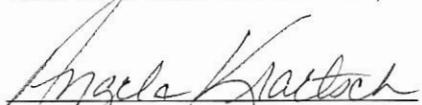
CITY OF SAN BRUNO
WARRANT REGISTER
TOTAL FUND RECAP

FUND	FUND NAME	AMOUNT
001	GENERAL FUND	\$83,846.20
003	ONE-TIME REVENUE	\$5,037.76
121	FEDERAL/STATE GRANTS	\$1,200.00
122	SOLID WASTE/RECYCL.	\$1,808.98
132	AGENCY ON AGING	\$3,832.76
133	RESTRICTED DONATIONS	\$5.00
190	EMERGENCY DISASTER FUND	\$68,657.48
611	WATER FUND	\$50,441.42
621	STORMWATER FUND	\$400.12
631	WASTEWATER FUND	\$17,346.96
641	CABLE TV FUND	\$8,311.42
701	CENTRAL GARAGE	\$200.00
702	FACILITY MAINT. FUND	\$3,280.13
703	GENERAL EQUIPMENT REVOLVING	\$697.46
707	TECHNOLOGY DEVELOPMENT	\$2,855.57
711	SELF INSURANCE	\$150,000.00
TOTAL FOR APPROVAL		\$397,921.26

HONORABLE MAYOR AND CITY COUNCIL:

THIS IS TO CERTIFY THAT THE CLAIMS LISTED ON PAGES NUMBERED FROM 1 THROUGH 2 INCLUSIVE, AND/OR CLAIMS NUMBERED FROM 154850 THROUGH 154934 INCLUSIVE, TOTALING IN THE AMOUNT OF \$397,921.26 HAVE BEEN CHECKED IN DETAIL AND APPROVED BY THE PROPER OFFICIALS, AND IN MY OPINION REPRESENT FAIR AND JUST CHARGES AGAINST THE CITY IN ACCORDANCE WITH THEIR RESPECTIVE AMOUNTS AS INDICATED THEREON.

RESPECTFULLY SUBMITTED,


FINANCE DIRECTOR 5/13/15
DATE

Document group: komalley Bank: apbank 05507660

Vendor Code & Name	Check #	Check Date	Amount
0016708 ACOM SOLUTIONS, INC.	154851	5/11/2015	795.00
0016499 ACTION SPORTS	154852	5/11/2015	3,462.06
0017459 ALL CITY MANAGEMENT SVC.INC.	154853	5/11/2015	3,824.90
0094265 AMERICAN CONSTRUCTION & SUPPLY INC.	154865	5/11/2015	219.14
0106199 ARAGON VETERINARY CLINIC	154854	5/11/2015	804.80
0014617 AT&T	154855	5/11/2015	13.00
0016123 AT&T	154856	5/11/2015	1,974.22
0017624 BKF ENGINEERS	154858	5/11/2015	67,923.62
0017434 BROWN & CALDWELL	154859	5/11/2015	825.25
0102737 BURKE, WILLIAMS & SORENSEN,LLP	154860	5/11/2015	5,037.76
0096798 BUSINESS PRODUCTS & SUPPLIES	154861	5/11/2015	1,256.50
0105324 CAINE COMPUTER CONSULTING, LLC	154862	5/11/2015	4,030.00
0106039 CHRISTOPHER WETTSTEIN	154933	5/11/2015	1,348.41
0000386 CITY OF SOUTH SAN FRANCISCO	154863	5/11/2015	2,711.67
0105187 CONCERN	154864	5/11/2015	682.08
0104693 DEBBIE GRECH	154876	5/11/2015	110.00
0018673 DENNIS BOSCH	154866	5/11/2015	1,627.37
0106202 EARLENE KLEMENT	154882	5/11/2015	1,000.00
0017152 ERLER & KALINOWSKI, INC.	154868	5/11/2015	404.04
0013683 F. FERRANDO & CO.	154869	5/11/2015	276.00
0105857 FIRE INFORMATION SUPPORT SVCS. INC.	154880	5/11/2015	250.00
0013714 FIRST NATIONAL BANK	154870	5/11/2015	23,162.37
0001782 FLOWERS ELECTRIC & SVC.CO.INC.	154871	5/11/2015	720.00
0018117 FLYERS ENERGY, LLC	154872	5/11/2015	10,567.42
0102869 FRANCHISE TAX BOARD	154873	5/11/2015	50.00
0000541 GRANITE ROCK COMPANY	154874	5/11/2015	2,820.24
0095966 GREATAMERICA FINANCIAL SVCS.	154875	5/11/2015	404.33
0017914 GSWAW INC.	154877	5/11/2015	7,269.33
0106198 HANSA TRADING INTERNATIONAL, INC.	154921	5/11/2015	276.00
0105378 HOME MAID RAVIOLI COMPANY INC.	154878	5/11/2015	44.50
0105735 HYDROSCIENCE ENGINEERS, INC.	154879	5/11/2015	6,057.50
0093434 JT2 INTEGRATED RESOURCES	154850	5/6/2015	150,000.00
0000075 K-119 TOOLS OF CALIFORNIA INC.	154881	5/11/2015	288.80
0018498 KONICA MINOLTA	154883	5/11/2015	697.46
0000317 L.N. CURTIS & SONS	154884	5/11/2015	68.17
0102919 LABELMASTER	154885	5/11/2015	32.44
0103049 LAURETTA PRINTING© CENTER	154886	5/11/2015	489.38
0014262 LC ACTION POLICE SUPPLY	154888	5/11/2015	1,189.10
0018777 LEXISNEXIS RISK DATA MANAGEMENT	154908	5/11/2015	177.00
0104424 LIDIA'S ITALIAN DELICACIES	154889	5/11/2015	825.00
0104424 LIDIA'S ITALIAN DELICACIES	154890	5/11/2015	435.84
0018177 LOWE'S	154892	5/11/2015	101.33
0099128 MARIA D. RODRIGUEZ	154909	5/11/2015	400.00
0102770 METLIFE	154893	5/11/2015	350.46
0102832 MOORE IACOFANO GOLTSMAN, INC.	154894	5/11/2015	83.58
0000357 NATIONAL CABLE TV CO-OP, INC.	154895	5/11/2015	783.67
0096724 NATIONAL CONSTRUCTION RENTALS	154896	5/11/2015	49.05
0092263 OFFICE DEPOT INC	154898	5/11/2015	1,397.12
0098777 OSCAR BENITEZ	154857	5/11/2015	400.00
0000012 PACIFIC GAS & ELECTRIC	154899	5/11/2015	15,173.93
0015163 PENINSULA SPORTS OFFICIALS ASSOC.INC.	154916	5/11/2015	416.00
0103921 PHILIP WOFFENDEN	154934	5/11/2015	179.72
0098436 PROFESSIONAL LAND SERVICES	154901	5/11/2015	2,260.00

Document group: komalley Bank: apbank 05507660

Vendor Code & Name	Check #	Check Date	Amount
0097558 PURCHASE POWER	154902	5/11/2015	200.00
0013981 QUILL CORPORATION	154903	5/11/2015	58.99
0000071 R & B COMPANY	154904	5/11/2015	3,238.73
0091044 R.A. METAL PRODUCTS, INC	154905	5/11/2015	3,117.40
0103531 RICOH USA, INC.	154907	5/11/2015	275.96
0000022 ROBERT LOUIE	154891	5/11/2015	25.35
0018915 ROSE CITY LABEL	154910	5/11/2015	279.00
0016213 ROZZI REPRODUCTION&SUPPLY INC.	154911	5/11/2015	277.95
0016774 SAN DIEGO POLICE EQUIPMENT CO.	154912	5/11/2015	519.62
0099047 SAN MATEO CTY SHERIFF'S OFFICE	154913	5/11/2015	11,207.03
0092067 SCOTT WALDVOGEL	154914	5/11/2015	274.98
0104737 SHERRY NOAKES	154897	5/11/2015	165.35
0098030 SHRED-IT USA - SAN FRANCISCO	154915	5/11/2015	54.95
0106197 SIMONA L. PERRY	154900	5/11/2015	1,200.00
0097079 SPRINT	154917	5/11/2015	79.98
0018028 STATE WATER RESOURCES CONTROL BOARD(SWF	154906	5/11/2015	4,417.28
0105796 SUNRISE FOOD DISTRIBUTOR INC.	154918	5/11/2015	105.99
0106093 SUPPLIESOUTLET.COM	154919	5/11/2015	355.98
0101086 T-MOBILE	154920	5/11/2015	13.26
0096003 TRACI DOS SANTOS	154867	5/11/2015	1,569.10
0105869 TREVOR LAVEZZO	154887	5/11/2015	60.00
0000665 TSQ SOLUTIONS INC.	154922	5/11/2015	325.00
0018198 UMESH MAHARAJ	154923	5/11/2015	136.25
0099592 UNIVISION COMMUNICATIONS, INC.	154924	5/11/2015	6,303.96
0098625 UPS	154925	5/11/2015	44.00
0105133 UTILITY TELEPHONE, INC.	154926	5/11/2015	1,227.61
0102988 VANTAGEPOINT TRANSFER AGENTS	154927	5/11/2015	12,427.69
0095749 VERIZON WIRELESS	154928	5/11/2015	502.65
0098917 VOLIKOS ENTERPRISES	154929	5/11/2015	2,650.08
0103044 WATER ENVIRONMENT FEDERATION	154930	5/11/2015	272.00
0104660 WEST YOST ASSOCIATES, INC.	154931	5/11/2015	18,833.76
0000612 WESTVALLEY CONSTRUCTION CO.INC	154932	5/11/2015	1,955.80
		GrandTotal:	397,921.26
		Total count:	85

05/18/15

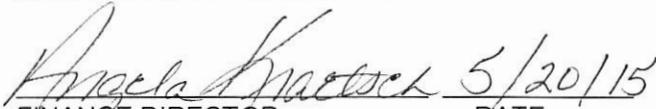
CITY OF SAN BRUNO
WARRANT REGISTER
TOTAL FUND RECAP

FUND	FUND NAME	AMOUNT
001	GENERAL FUND	\$156,862.64
122	SOLID WASTE/RECYCL.	\$621.20
132	AGENCY ON AGING	\$4,119.30
611	WATER FUND	\$23,689.24
621	STORMWATER FUND	\$306.17
631	WASTEWATER FUND	\$29,832.08
641	CABLE TV FUND	\$62,976.00
701	CENTRAL GARAGE	\$49.92
702	FACILITY MAINT. FUND	\$29,194.32
707	TECHNOLOGY DEVELOPMENT	\$678.22
711	SELF INSURANCE	\$30,635.88
TOTAL FOR APPROVAL		\$338,964.97

HONORABLE MAYOR AND CITY COUNCIL:

THIS IS TO CERTIFY THAT THE CLAIMS LISTED ON PAGES NUMBERED FROM 1 THROUGH 4 INCLUSIVE, AND/OR CLAIMS NUMBERED FROM 154935 THROUGH 155107 INCLUSIVE, TOTALING IN THE AMOUNT OF \$338,964.97 HAVE BEEN CHECKED IN DETAIL AND APPROVED BY THE PROPER OFFICIALS, AND IN MY OPINION REPRESENT FAIR AND JUST CHARGES AGAINST THE CITY IN ACCORDANCE WITH THEIR RESPECTIVE AMOUNTS AS INDICATED THEREON.

RESPECTFULLY SUBMITTED,


FINANCE DIRECTOR DATE

Document group: komalley Bank: apbank 05507660

Vendor Code & Name	Check #	Check Date	Amount
0096852 ABAG PLAN CORPORATION	154935	5/18/2015	13,474.38
0104680 ACCESS 24 COMMUNICATIONS INC.	154936	5/18/2015	300.10
0000163 AIRPORT AUTO PARTS INC.	154937	5/18/2015	19.13
0097137 ALERT DOOR SERVICE INC	154938	5/18/2015	1,523.00
0018611 ALL INDUSTRIAL ELECTRIC SUPPLY	154939	5/18/2015	5.12
0000372 ALLIED SECURITY ALARMS	154940	5/18/2015	495.00
0018976 ALPHA ANALYTICAL LAB. INC.	154941	5/18/2015	3,741.00
0000082 AMERICAN MESSAGING	154942	5/18/2015	16.04
0000706 AMERICAN PLANNING ASSOCIATION	154943	5/18/2015	425.00
0098098 ANDREY VYSHINSKY	155094	5/18/2015	19.58
0017403 APPLICATION ASSOCIATES	154944	5/18/2015	390.00
0001965 ARISTA BUSINESS	154945	5/18/2015	507.83
0016123 AT&T	154946	5/18/2015	811.69
0017913 AT&T	154947	5/18/2015	594.00
0017211 AUTOMATIC DOOR SYSTEMS,INC.	154948	5/18/2015	4,739.11
0000345 BAKER & TAYLOR BOOKS	154949	5/18/2015	2,527.68
0017678 BAUER COMPRESSORS INC.	154951	5/18/2015	915.00
0105737 BAY CITIES PYROTECTOR, INC.	154952	5/18/2015	513.21
0018093 BBC AMERICA INC.	154953	5/18/2015	734.33
0018688 BEST BEST & KRIEGER LLP	154956	5/18/2015	1,426.19
0106204 BLUE LINE CANINE LLC	154957	5/18/2015	9,500.00
0097810 BO DONG	154984	5/18/2015	29.81
0018211 BRILLIANCE PUBLISHING, INC.	154959	5/18/2015	45.76
0000378 BROADMOOR LANDSCAPE SUPPLY	154960	5/18/2015	1,280.35
0018977 CBS TELEVISION STATIONS	154965	5/18/2015	10,724.40
0017843 CENTRAL COUNTY FIRE DEPT.	154966	5/18/2015	140.00
0100017 CHARLES GRASSIS	154999	5/18/2015	39.09
0017284 CHEMSEARCHFE	154967	5/18/2015	386.50
0100634 CHRISTINA HASCHKA	155002	5/18/2015	100.00
0106039 CHRISTOPHER WETTSTEIN	155100	5/18/2015	1,260.00
0016324 CINTAS CORPORATION	154969	5/18/2015	1,128.51
0016324 CINTAS CORPORATION	154970	5/18/2015	193.74
0102572 CINTAS FIRE PROTECTION	154971	5/18/2015	4,668.51
0098588 CITY OF BURLINGAME	154972	5/18/2015	3,388.50
0000227 CITY OF SAN BRUNO	154973	5/18/2015	5,538.10
0102625 CONTEC, LLC	154975	5/18/2015	2,968.05
0093485 COUNTY OF SAN MATEO	154977	5/18/2015	366.50
0016604 CUMMINS PACIFIC, LLC	154978	5/18/2015	5,094.83
0017533 CUTTERS EDGE	154979	5/18/2015	102.58
0092169 DAN VOREYER	155092	5/18/2015	6,808.14
0106080 DATALINK CORPORATION	154980	5/18/2015	2,900.00
0018188 DAU PRODUCTS	154981	5/18/2015	1,559.44
0000197 DEMCO SUPPLY INC.	154982	5/18/2015	51.53
0095135 DEREK FROST	154993	5/18/2015	55.14
0017300 ENVIRONMENTAL HEALTH FEE	154986	5/18/2015	1,989.00
0099339 ERIC FALSKEN	154988	5/18/2015	41.95
0093685 ERIC JACKSON	155011	5/18/2015	65.39
0106116 EVERBANK COMMERCIAL FINANCE, INC.	154974	5/18/2015	376.62
0000046 EWING IRRIGATION PRODUCTS INC	154987	5/18/2015	3,058.92
0000944 FEDEX	154989	5/18/2015	15.47
0105857 FIRE INFORMATION SUPPORT SVCS. INC.	155006	5/18/2015	3,750.00
0001782 FLOWERS ELECTRIC & SVC.CO.INC.	154990	5/18/2015	480.00
0018117 FLYERS ENERGY, LLC	154991	5/18/2015	8,261.37

Document group: komalley Bank: apbank 05507660

Vendor Code & Name	Check #	Check Date	Amount
0105960 GARRATT CALLAHAN	154994	5/18/2015	3,990.48
0093441 GENE WONG	155103	5/18/2015	200.00
0104135 GLOBAL TRACKING COMMUNICATIONS, INC.	155082	5/18/2015	89.97
0016154 GOETZ BROTHERS SPORTING GOODS	154995	5/18/2015	4,223.21
0016969 GOLDEN IDEAS	154996	5/18/2015	350.00
0000162 GRAINGER	154997	5/18/2015	367.16
0000541 GRANITE ROCK COMPANY	154998	5/18/2015	5,378.84
0017900 GREAT LAKES DATA SYSTEMS INC	155000	5/18/2015	1,450.00
0096316 GREEN CARPET LANDSCAPING & MAINTENANCE	155020	5/18/2015	1,100.00
0096799 GROUNDWATER RESOURCES ASSOCIATION OF CA	155059	5/18/2015	115.00
0000385 HACH COMPANY	155001	5/18/2015	2,085.05
0097346 HELEN NARDI	155034	5/18/2015	100.00
0097093 IAN SHIEH	155066	5/18/2015	12.59
0018838 INFOSEND, INC.	155007	5/18/2015	4,514.16
0015531 INTERSTATE BATTERY SYS. OF SF	155008	5/18/2015	111.86
0018557 INTERSTATE SALES	155009	5/18/2015	2,167.36
0099054 INTERSTATE TRS FUND	155010	5/18/2015	882.30
0099024 JACK WEEKS	155097	5/18/2015	68.80
0100909 JAMES LEE	155022	5/18/2015	100.00
0099891 JAMES POMPOSO	155053	5/18/2015	57.15
0098973 JOSEPH TELLES	155076	5/18/2015	7,935.24
0000771 JT2 INTEGRATED RESOURCES	155013	5/18/2015	17,161.50
0000075 K-119 TOOLS OF CALIFORNIA INC.	155014	5/18/2015	1,842.81
0018050 KAISER FOUNDATION HEALTH PLAN	155015	5/18/2015	4,899.37
0100666 KAMAN TONG	155081	5/18/2015	100.00
0000132 KELLY-MOORE PAINT CO INC.	155016	5/18/2015	77.76
0100053 KUMIKO COOPER	154976	5/18/2015	6.84
0000317 L.N. CURTIS & SONS	155017	5/18/2015	425.10
0096347 LA LORICK ASSOCIATES	155018	5/18/2015	4,214.97
0018561 LANCE BAYER	155019	5/18/2015	1,000.00
0097290 LECTORUM PUBLICATIONS	155021	5/18/2015	64.76
0105752 LEVEL 3 COMMUNICATIONS, LLC	155023	5/18/2015	4,527.96
0105034 LFP BROADCASTING, LLC	155024	5/18/2015	31.20
0104424 LIDIA'S ITALIAN DELICACIES	155025	5/18/2015	3,631.75
0097497 LISA HERNANDEZ	155005	5/18/2015	400.00
0018177 LOWE'S	155026	5/18/2015	1,672.92
0090000 MARC CATALANO	154964	5/18/2015	6,706.20
0099377 MARGARET BELTRAMO	154954	5/18/2015	261.87
0097937 MARK BUNNELL	154961	5/18/2015	400.00
0091438 MATT CAMPI	154962	5/18/2015	7,473.17
0016041 METROMOBILE COMMUNICATIONS	155028	5/18/2015	195.00
0095907 MICHAEL MURPHY	155033	5/18/2015	100.00
0018783 MICHAEL V FERRETTI	155029	5/18/2015	200.00
0096877 MICHELLE MANAHAN	155027	5/18/2015	56.75
0016863 MIDWEST TAPE, LLC	155030	5/18/2015	108.75
0001709 MILLBRAE LOCK	155031	5/18/2015	255.44
0097675 MONARCHE BAMBILLA	154950	5/18/2015	100.00
0000333 MOSS RUBBER & EQUIP. CORP.	155032	5/18/2015	1,181.68
0000357 NATIONAL CABLE TV CO-OP, INC.	155035	5/18/2015	3,985.57
0106195 NATIONAL CINEMEDIA, LLC	155036	5/18/2015	621.20
0000788 NEIL TELFORD	155075	5/18/2015	2,988.00
0015839 NOR-CAL SIGNS	155037	5/18/2015	27.25
0090001 NOREEN HANLON	155038	5/18/2015	5,845.20
0105238 NORTHERN SERVICES INC.	155039	5/18/2015	6,460.33

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City of San Bruno

Document group: komalley Bank: apbank 05507660

Vendor Code & Name	Check #	Check Date	Amount	
0018157	OCLC INC	155040	5/18/2015	341.07
0092263	OFFICE DEPOT INC	155041	5/18/2015	973.49
0018284	OFFICEMAX INC.	155042	5/18/2015	147.39
0000210	OLE'S CARBURETOR & ELECTRIC INC	155043	5/18/2015	2.32
0097567	ONE HOUR DRY CLEANING	155044	5/18/2015	239.30
0106043	OPTIONS	155045	5/18/2015	1,591.68
0018701	ORKIN PEST CONTROL	155046	5/18/2015	507.54
0103933	OWEN EQUIPMENT SALES	155047	5/18/2015	820.82
0000012	PACIFIC GAS & ELECTRIC	155048	5/18/2015	6,438.37
0000101	PACIFIC NURSERIES	155049	5/18/2015	354.14
0018297	PATRICK SWEENEY	155071	5/18/2015	6,675.18
0104173	PAUL VELLA	155089	5/18/2015	111.89
0106156	PENGUIN RANDOM HOUSE LLC	155050	5/18/2015	114.45
0001327	PENINSULA PUMP & EQUIPMENT INC	155051	5/18/2015	452.72
0106205	PERRY YAN	155104	5/18/2015	275.00
0105947	PLACEWORKS	155052	5/18/2015	1,820.70
0018006	PUPPET ART THEATER CO.	155055	5/18/2015	160.00
0000071	R & B COMPANY	155056	5/18/2015	4,079.64
0106206	RAINBOW BOOK COMPANY	155057	5/18/2015	76.20
0103238	RANDY BRASE	154958	5/18/2015	13.98
0017712	RECALL SECURE DESTRUCTION SERVICES, INC.	154983	5/18/2015	93.21
0090749	RED WING SHOE STORE	155058	5/18/2015	656.13
0106086	ROB HENSEL, JR.	155004	5/18/2015	155.00
0013581	ROVI GUIDES, INC.	155060	5/18/2015	10,176.26
0105003	S & S PLUMBING CO.	155061	5/18/2015	650.00
0017432	SAN MATEO COUNTY PUBLIC SAFETY COMMUNICA	155054	5/18/2015	487.50
0018597	SAN MATEO DAILY JOURNAL	155062	5/18/2015	480.00
0017145	SAN MATEO LAWN MOWER SHOP	155063	5/18/2015	456.44
0018718	SCOTT BUSCHMAN PHOTOGRAPHY	155064	5/18/2015	213.50
0013985	SCTE, INC.	155065	5/18/2015	75.00
0100091	SINAFEA WILSON	155102	5/18/2015	100.00
0017508	SOUTH CITY LUMBER AND SUPPLY	155067	5/18/2015	37.57
0002039	STANDARD & POOR'S CORP.	155068	5/18/2015	360.00
0105796	SUNRISE FOOD DISTRIBUTOR INC.	155069	5/18/2015	487.55
0017802	SUPPLYWORKS	155070	5/18/2015	4,172.69
0099570	SYLVIA ZHOU	155107	5/18/2015	100.00
0096932	TASC	155072	5/18/2015	295.51
0018073	TEAMSTERS LOCAL 350	155073	5/18/2015	2,380.00
0015691	TEAMSTERS LOCAL 856	155074	5/18/2015	14,240.00
0002025	TELECOMMUNICATIONS ENGINEERING ASSOCIATE	154985	5/18/2015	239.00
0102574	THE BILINGUAL PUBLICATIONS CO.	155077	5/18/2015	60.92
0017659	THE CALIFORNIA CHANNEL	155078	5/18/2015	119.16
0014149	THERESA JACKSON	155012	5/18/2015	6,685.80
0000036	THOMSON WEST	155079	5/18/2015	512.08
0097449	THYSSENKRUPP ELEVATOR CORP.	155080	5/18/2015	403.85
0099925	TODD BENFIT	154955	5/18/2015	54.17
0095521	TONISANI HELU	155003	5/18/2015	102.19
0018500	TURF & INDUSTRIAL EQUIPMENT CO	155083	5/18/2015	2,016.50
0103095	TUTV	155084	5/18/2015	110.20
0018618	UNITED SITE SERVICES INC.	155085	5/18/2015	185.40
0102744	UNIVERSAL BUILDING SERVICES	155086	5/18/2015	163.00
0099592	UNIVISION COMMUNICATIONS, INC.	155087	5/18/2015	6,275.88
0098730	URBAN CHALET INC.	155088	5/18/2015	124.73
0095749	VERIZON WIRELESS	155090	5/18/2015	3,039.37

Document group: komalley Bank: apbank 05507660

Vendor Code & Name	Check #	Check Date	Amount
0100638 VERNA FREED	154992	5/18/2015	200.00
0098545 VICTOR CAPE	154963	5/18/2015	100.00
0098917 VOLIKOS ENTERPRISES	155091	5/18/2015	2,527.36
0105762 VUBIQUITY INC.	155093	5/18/2015	3,935.06
0018432 W. BRADLEY ELECTRIC INC.	155095	5/18/2015	320.00
0097861 WAI KING CHIU	154968	5/18/2015	100.00
0104233 WAVE	155096	5/18/2015	8,833.50
0100258 WEST COAST MOBILE HOME PARK	155098	5/18/2015	29.99
0000612 WESTVALLEY CONSTRUCTION CO.INC	155099	5/18/2015	18,660.11
0096399 WILLIAM PAUL WHITE	155101	5/18/2015	480.00
0100636 WILLIAM YOUNG	155105	5/18/2015	100.00
0000421 ZEP MANUFACTURING CO.	155106	5/18/2015	906.35
		GrandTotal:	338,964.97
		Total count:	173



**City Council Agenda Item
Staff Report**

CITY OF SAN BRUNO

DATE: May 26, 2015
TO: Honorable Mayor and Members of the City Council
FROM: Angela Kraetsch, Finance Director
SUBJECT: Payroll Approval

City Council approval of the City payroll distributed May 8, 2015 is recommended. The Labor Summary report reflecting the total payroll amount of \$1,445,757.56 for bi-weekly pay period ending May 3, 2015 is attached.

76.

LABOR SUMMARY FOR PAY PERIOD ENDING : MAY 3, 2015

pyLaborDist	05/08/15
Fund: 001 - GENERAL FUND	1,097,684.71
Fund: 122 - SOLID WASTE/RECYCL.	1,667.05
Fund: 190 - EMERGENCY DISASTER FUND	9,996.10
Fund: 203 - STREET IMPROVE. PROJECTS	6,169.05
Fund: 207 - TECHNOLOGY CAPITAL	1,036.42
Fund: 611 - WATER FUND	79,405.48
Fund: 621 - STORMWATER FUND	18,707.12
Fund: 631 - WASTEWATER FUND	60,781.35
Fund: 641 - CABLE TV FUND	107,526.74
Fund: 701 - CENTRAL GARAGE	10,845.53
Fund: 702 - FACILITY MAINT.FUND	30,181.90
Fund: 707 - TECHNOLOGY DEVELOPMENT	16,760.98
Fund: 711 - SELF INSURANCE	4,995.13
Total	1,445,757.56



City of San Bruno
567 El Camino Real
San Bruno, CA 94066

CITY OF SAN BRUNO
Portfolio Summary
April 30, 2015

Investments	CUSIP	Book Value	Interest Rate	Maturity Date	% of Portfolio
Investment Pools:					
Local Agency Investment Fund		\$ 14,309,781.21	0.26%		11%
Glenview Fire Local Investment Fund		3,044,575.81	0.26%		2%
San Mateo County Pool		21,973,453.18	1.00%		17%
		<u>39,327,810.20</u>			<u>31%</u>
Total Investment Pools					
Federal Agency Bonds:					
Federal Home Loan Mortgage Corp	3134C46W3	1,000,000.00	0.57%	June 20, 2016	1%
Federal National Mortgage Association	3136G1KS7	1,000,000.00	0.50%	August 15, 2016	1%
Federal National Mortgage Association	3135G0YA5	1,000,000.00	0.75%	December 19, 2016	1%
Federal Home Loan Mortgage Corp	3134G56N0	999,000.00	1.00%	June 26, 2017	1%
Federal National Mortgage Association	3136G25J2	1,000,000.00	1.13%	September 18, 2017	1%
Federal Home Loan Mortgage Corp	3134G5AU9	2,000,000.00	1.19%	December 26, 2017	2%
Federal National Mortgage Association	3136G13P2	2,000,000.00	0.80%	December 26, 2017	2%
Federal Home Loan Bank	313382EH2	1,000,000.00	1.01%	December 27, 2017	1%
Federal Home Loan Mortgage Corp	3134G6KW2	1,000,000.00	1.30%	March 29, 2018	1%
Federal Farm Credit Bank	3133EDQ21	1,000,000.00	1.47%	July 9, 2018	1%
Federal Home Loan Mortgage Corp	3134G6LB7	1,000,000.00	1.65%	December 26, 2018	1%
Federal Home Loan Bank	3130A3NJ9	1,000,000.00	1.25%	December 30, 2019	1%
		<u>13,999,000.00</u>			<u>11%</u>
Total Federal Agency Bonds					
Federal Agency Bonds - Step Up:					
Federal Home Loan Bank	3130A1YU6	2,000,000.00	1.50%	May 28, 2019	2%
		<u>2,000,000.00</u>			
Total Federal Agency Bonds - Step Up					
Municipal Bonds:					
Cal State Federal Taxable	13063CKL3	2,015,100.00	2.21%	May 1, 2019	2%
		<u>2,015,100.00</u>			
Total Municipal Bonds					
Medium Term Notes:					
		-			0%
Total Medium Term Notes					
Money Market:					
U.S. Government Money Market	23380W525	2,039,171.52	0.01%		2%
		<u>2,039,171.52</u>			
Total Money Market					
Custodial Account:					
City of San Bruno as Temporary Custodian		\$ 68,447,784.07			54%
		<u>\$ 68,447,784.07</u>			
Total Custodial Account					
TOTAL INVESTMENTS					
		<u>\$ 127,828,865.79</u>			<u>100%</u>

7.c.

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City of San Bruno
Through April 2015

Through period: 10

	Cash	Investments	Fund Total
001 GENERAL FUND	6,898,605.52	53,735.00	6,952,340.52
002 GENERAL FUND RESERVE	8,559,098.25	0.00	8,559,098.25
003 ONE-TIME REVENUE	878,866.70	0.00	878,866.70
004 NEW CAP IMPROV/ONE-TIME INITIATIVE RSRV	5,581,050.11	0.00	5,581,050.11
101 GAS TAX	593,435.84	0.00	593,435.84
102 MEASURE A TRANSPORTATION TAX	908,055.67	0.00	908,055.67
103 STREET SPECIAL REVENUE	310,691.09	0.00	310,691.09
104 TRAFFIC CONGESTION RELIEF	0.00	0.00	0.00
111 POLICE ASSET FORFEITURE	58,118.86	0.00	58,118.86
112 SAFETY AUGMENT. -PROP.172	51,052.80	0.00	51,052.80
113 POLICE SPECIAL REVENUE	31,609.70	0.00	31,609.70
114 TRAFFIC SAFETY GRANT	61,813.57	0.00	61,813.57
121 FEDERAL/STATE GRANTS	10,642.57 CR	0.00	10,642.57 CR
122 SOLID WASTE/RECYCL.	252,570.97	0.00	252,570.97
123 LIBRARY SPECIAL REVENUE	208,583.93	0.00	208,583.93
131 IN-LIEU FEES	3,563,137.27	0.00	3,563,137.27
132 AGENCY ON AGING	26,068.13	0.00	26,068.13
133 RESTRICTED DONATIONS	880,903.36	0.00	880,903.36
134 ED JOHNSON BEQUEST FUND	26,031.68	0.00	26,031.68
135 GLENVIEW FIRE DONATIONS	0.00	0.00	0.00
136 EMERGENCY DISASTER RESERVE	3,044,575.81	0.00	3,044,575.81
151 SUCCESSOR AGENCY TO THE SB RDA - OPS	0.00	0.00	0.00
152 CITY OF SB AS SUCCESSOR HOUSING AGENC\	90,400.00	0.00	90,400.00
153 RDA OBLIGATION RETIREMENT FUND	982,276.84	649,986.88	1,632,263.72
190 EMERGENCY DISASTER FUND	3,197,363.00 CR	0.00	3,197,363.00 CR
201 PARKS AND FACILITIES CAPITAL	1,387,446.26	0.00	1,387,446.26
203 STREET IMPROVE. PROJECTS	3,993,749.01	0.00	3,993,749.01
207 TECHNOLOGY CAPITAL	303,414.18	0.00	303,414.18
251 SUCCESSOR AGENCY TO THE SB RDA - CAPIT\	0.00	0.00	0.00
302 LEASE DEBT SERVICE	797,112.10	2.59	797,114.69
351 SUCCESSOR AGENCY TO THE SB RDA -2000 C\	0.00	0.00	0.00
611 WATER FUND	12,771,136.21	0.00	12,771,136.21
621 STORMWATER FUND	207,384.30	0.00	207,384.30
631 WASTEWATER FUND	10,405,356.28	2.81	10,405,359.09
641 CABLE TV FUND	6,686,973.12 CR	200.00	6,686,773.12 CR
701 CENTRAL GARAGE	626,674.74	0.00	626,674.74
702 FACILITY MAINT.FUND	898,183.00	0.00	898,183.00
703 GENERAL EQUIPMENT REVOLVING	4,126,617.94	0.00	4,126,617.94
707 TECHNOLOGY DEVELOPMENT	224,152.70	0.00	224,152.70
711 SELF INSURANCE	2,170,889.76	91,118.50	2,262,008.26
870 SAN BRUNO COMMUNITY FOUNDATION	68,447,784.07	0.00	68,447,784.07
880 PROJECT DEVELOP. TRUST	319,492.39	0.00	319,492.39
891 S.B. GARBAGE CO. TRUST	469,831.34	0.00	469,831.34
Grand Total:	130,261,191.69 *	795,045.78	131,056,237.47

* Reconciliation of Pooled Cash & Investments to Portfolio Book Value

Investment Portfolio Value	\$127,828,865.79
Cash on hand - Checking Accounts	4,739,587.58
Payroll and Accounts Payable Outstanding Checks	2,390,671.30
Deposits in Transit	83,409.62
General Ledger Cash Balance as of April 30, 2015	\$130,261,191.69

Totals are through period: 10

Page: 1



City Council Agenda Item Staff Report

CITY OF SAN BRUNO

DATE: May 26, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Angela Kraetsch, Finance Director

SUBJECT: Waive Second Reading, and Adopt Ordinance Imposing a 1.652% Rate Increase for Recology San Bruno Garbage and Recycling Services to be Effective July 1, 2015

BACKGROUND

The City's franchise agreement with Recology San Bruno became effective July 1, 1998. According to this agreement, Recology is entitled to annual rate adjustments based on a Detailed Rate Year analysis every two to three years and Interim Rate Year analysis other years.

On January 30, 2015 Recology presented an Interim Rate Year adjustment calculation in accordance with the franchise agreement between Recology and the City. This Interim Rate Year adjustment blends 80% of the change in the San Francisco-area Consumer Price Index (CPI) and the percentage increase for authorized Pass-Through expenses. The net calculation for 2015-16 is 1.652%.

At the March 10, 2015 City Council meeting, staff presented the proposed rate increase and the City Council directed staff to proceed with a notification to all property owners of the proposed change in garbage rates. The notification process for the 2015-16 rates was implemented in accordance with the notice and protest provisions of Proposition 218, which established legal requirements for imposing or increasing property-related taxes, assessments, fees, and charges. The written notice of the proposed rates was mailed to all property owners on March 23, 2015 along with date, time, and location of the May 12, 2015 public hearing.

The City received and distributed 53 written responses prior to the May 12, 2015 City Council meeting. During the meeting, the City Council introduced the ordinance on the agenda for adoption and held a public hearing regarding the proposed rate increase. There were no verbal responses made by the public at that time. However, the City Council questioned if Recology had reached out to customers that had submitted a written response. Recology General Manager, Kirsten Pinochi, stated that Recology had contacted customers that had submitted responses and that currently have a 32 gallon toter to assist them in moving down to a 20 gallon toter in order to reduce their costs. In addition, Recology contacted customers that had questioned the availability of

7.d.

smaller toters for both recycling and green waste and notified them that these options were available.

DISCUSSION

Recology has submitted an Interim Rate Year adjustment totaling 1.652%. Per the franchise agreement, the adjustment blends 80% of the change in the area CPI and the percentage increase for authorized pass-through expenses.

The action for May 26, 2015 includes waiving the second reading and adopting the ordinance which will adjust Recology's garbage rate by 1.652% effective July 1, 2015.

FISCAL IMPACT

Based on the proposed rate adjustment of 1.652%, charges for a 32-gallon residential toter would increase by \$0.46, from \$27.73 to \$28.19. Examples of the proposed rate change for other services include:

	Existing Rate	Proposed Rate Effective 7/1/2015
Residential		
32-gallon toter	\$27.73	\$28.19
64-gallon toter	\$55.46	\$56.38
96-gallon toter	\$83.19	\$84.57
Commercial		
64-gallon toter, 1 per week	\$70.48	\$71.64
1-yard container, 1 per week	\$147.93	\$150.37

The increase would be effective for bills produced after July 1, 2015.

RECOMMENDATION

Waive second reading, and adopt ordinance imposing a 1.652% rate increase to Recology San Bruno garbage and recycling services to be effective July 1, 2015.

ATTACHMENTS

1. Ordinance Imposing a 1.652% Rate Increase to Recology San Bruno Garbage and Recycling Services to be Effective July 1, 2015.

DATE PREPARED

May 14, 2015

REVIEWED BY

CM_____

ORDINANCE NO. _____

**ORDINANCE OF THE CITY OF SAN BRUNO
ESTABLISHING GARBAGE AND REFUSE RATES**

Whereas, pursuant to Article XI, Section 7 of the California Constitution and Section 10.20.050 of the San Bruno Municipal Code, the City has granted Recology San Bruno ("Recology") an exclusive contract for the collection of garbage and rubbish within the city; and

Whereas, the City regulates the rates charged by Recology to San Bruno residents and businesses; and

Whereas, pursuant to Section 10.20.050(D) of the Municipal Code, the City has agreed to assist Recology with the billing and collection of such rates; and

Whereas, Recology has requested approval of a rate increase of 1.652% effective July 1, 2015; and

Whereas, notice of a public hearing on that proposed rate increase was mailed to garbage and refuse customers 45 days prior to May 12, 2015; and

Whereas, on May 12, 2015, at 7:00 p.m. at the San Bruno Senior Center located at 1555 Crystal Springs Road, San Bruno, California, the City Council held a public hearing on the proposed rate increase; and

Whereas, at the public hearing, the City Council considered testimony and protests from all interested persons; and

Whereas, the City Council did not receive written protests against the rate increase from a majority of the customers or parcels served by Recology; and

Whereas, the City Council now desires to approve the proposed rate increase.

The City Council of the City of San Bruno does ordain as follows:

Section 1. The above-stated recitals are true and correct.

Section 2. By its Ordinance No. 1824, this Council previously approved comprehensive garbage and refuse rates. Ordinance No. 1824 is hereby rescinded and superseded.

Section 3. The following rates for the collection of garbage and refuse are hereby approved:

I. Residential (1-3 units) Monthly Rate

Weekly Refuse and Recycling Services including the green cart

Toter - 20 gallon	\$	21.86
Toter - 32 gallon	\$	28.19
Toter - 64 gallon	\$	56.38
Toter - 96 gallon	\$	84.57
Low Income 32 gallon	\$	21.15
Each additional 32 gallon	\$	28.19
Additional 96 gallon green waste	\$	8.53
Extra Bag (approximately 32 gallon) – per pick up	\$	13.25

II. Multi-Unit Residential (4+units)

Weekly Refuse and Recycling Services

Bins, Cans & Carts (4-99 units)	\$	28.19 /unit
Bins (100+ units)	\$	26.78 /unit
Bin Rental - 1 yard	\$	35.45
Bin Rental - 2 yard	\$	41.15

III. Commercial

Weekly Refuse and Recycling Services (once per week pick up on weekday)

	Regular	Organics
Toter - 32 gallon	\$ 35.82	\$ 26.88
Toter - 64 gallon	\$ 71.64	\$ 53.76
Toter - 96 gallon	\$ 107.46	\$ 80.64

Saturday service will be charged at a rate of 1.5 times the regular weekday rate

Regular Container Monthly Rates

<u>P/U per Week</u>	<u>1yd</u>	<u>2yd</u>	<u>3yd</u>	<u>4yd</u>	<u>6yd</u>
1 x per	\$150.37	\$300.62	\$418.91	\$515.82	\$709.70
2 x per	\$300.74	\$601.24	\$837.82	\$1,031.64	\$1,419.40
3 x per	\$451.11	\$901.86	\$1,256.73	\$1,547.46	\$2,129.10
4 x per	\$601.48	\$1,202.48	\$1,675.64	\$2,063.28	\$2,838.80
5 x per	\$751.85	\$1,503.10	\$2,094.55	\$2,579.10	\$3,548.50
Sat. p/u	\$225.55	\$450.92	\$628.36	\$773.73	\$1,064.54
Extra p/u	\$ 34.71	\$ 69.36	\$ 96.65	\$119.04	\$163.76
Bin Rental	\$35.45	\$41.15	\$44.89	\$48.16	\$51.72

Organics Container Monthly Rates

<u>P/U per Week</u>	<u>1yd</u>	<u>2yd</u>	<u>3yd</u>	<u>4yd</u>	<u>6yd</u>
1 x per	\$ 112.78	\$ 225.45	\$ 314.19	\$ 386.88	\$ 532.27
2 x per	\$ 225.56	\$ 450.90	\$ 628.38	\$ 773.76	\$1,064.54
3 x per	\$ 338.34	\$ 676.35	\$ 942.57	\$1,160.64	\$1,596.81
4 x per	\$ 451.12	\$ 901.80	\$1,256.76	\$1,547.52	\$2,129.08
5 x per	\$ 563.90	\$1,127.25	\$1,570.95	\$1,934.40	\$2,661.35
Sat. p/u	\$ 169.17	\$ 338.19	\$ 471.28	\$ 580.31	\$ 798.42
Extra p/u	\$26.03	\$52.01	\$72.49	\$89.28	\$ 122.82
Bin Rental	\$26.58	\$30.86	\$33.68	\$36.13	\$38.80

IV. Debris Boxes (delivery and pick up included)

4 yard mini - Per day	\$ 185.44
6 yard mini - Per day	\$ 234.26
7 yard debris - 1-5 business days	\$ 448.97
16 yard debris - 1-5 business days	\$ 497.73
20 yard debris - 1-5 business days	\$ 546.57
25 yard debris - 1-5 business days	\$ 683.17
25 yard debris - Recyclables only	\$ 390.38
30 yard debris - 1-5 business days	\$ 792.49
Debris Box Hold-overs - After 5 th Day	10% of rate/day
Compacted Garbage - Per yard	\$ 55.61

V. Special Disposal Services for Bulky Goods

Special disposal services of bulky goods shall be provided by Recology San Bruno at rates calculated by Recology depending upon size, weight and means of disposal of items. Recology San Bruno shall make available a list of standard rates for frequently disposed of bulky goods. Rates for special disposal services of bulky goods are subject to review and modification by the City Council.

VI. Inside Pull-Out Service

0 – 25 feet	\$	8.91
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VII. Key/Lock Service

Each use of a key (including key, keypad, combination lock, automatic door opener, or any other entry mechanism) is required to open a lock or to enter or leave the premises, additional monthly charge of:

1 per week	\$	10.19
2 per week	\$	20.38
3 per week	\$	30.57
4 per week	\$	40.76
5 per week	\$	50.95
Saturday	\$	15.29

VIII. Excess Disposal/Overflowing Container Penalty

Service charge/penalty for excess disposal/overflowing container:

Per occurrence	\$	14.49
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Section 4. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15273, that this Ordinance is statutorily exempt from the requirements of the California Environmental Quality act (CEQA) in that it deals with the establishment of rates and fees.

Section 5. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of San Bruno hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 6. This Ordinance shall be published according to law.

Section 7. This Ordinance shall become effective 30 days after adoption and the rates will become effective for all bills generated after July 1, 2015. The rates set forth in Ordinance No. 1824 shall remain effective until that time.

ATTEST:

Jim Ruane, Mayor

Carol Bonner, City Clerk

APPROVED AS TO FORM:

Marc Zafferano, City Attorney

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I hereby certify that foregoing **Ordinance No.**
was introduced at a regular meeting of the San Bruno City Council on
May 12, 2015, and adopted by the San Bruno City Council at a regular meeting on
May 26, 2015, by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

Carol Bonner, City Clerk



City Council Agenda Item Staff Report

CITY OF SAN BRUNO

DATE: May 26, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Marc L. Zafferano, City Attorney
Jim Burch, Public Services Deputy Director

SUBJECT: Waive Second Reading and Adopt an Ordinance Amending Chapter 8.24, Section 8.24.200 of the San Bruno Municipal Code Relating to Private Sewer Laterals

BACKGROUND:

On April 14, 2015, the City Council adopted a Resolution repealing Resolution 1986-64 and directing implementation of the revised policy recommended by the City Council Utility Subcommittee. The new policy would continue to require the City to respond to requests for emergency service from residents. For those homeowners with a City-approved accessible and operable cleanout that would not damage City equipment, the City would also continue to provide ongoing maintenance services as necessary. However, repairing or replacing a damaged lower lateral would be the property owner's responsibility. The City Council also adopted a Resolution authorizing the City Manager to execute an agreement with Utility Service Partners to offer residential sewer lateral warranty service. The City Council directed staff to return with a revised ordinance reflecting the policy changes.

On May 12, 2015, the City Council held a public hearing and considered introducing an ordinance that would reflect the policy change expressed in the new Resolution. After listening to comments from the public, asking questions of staff, and deliberating, the City Council introduced the ordinance as proposed and directed staff to schedule the second reading of the ordinance and consideration for approval at the May 26, 2015 meeting. The ordinance for adoption is attached, and if approved, it would go into effect in 30 days.

To provide information about the changes to the policy, staff will schedule informational workshops at City Hall and the Senior Center to provide outreach to citizens and community groups. In addition, information will be provided in utility bill inserts and via Cable Television Channel 1.

DISCUSSION:

At the May 12 meeting, the City Council requested that staff return at the City Council meeting on June 9, 2015 with additional information about the following topics:

1. A survey of corresponding city ordinances in San Mateo County;
2. Alternatives to shifting repair and replacement responsibility to property owners;
3. Steps the City is taking to proactively reduce inflow and infiltration ("I&I") from private laterals and City mains; and

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4. The scope, schedule, cost, and rate impact of projects reflected in the City's adopted Sewer Master Plan.

FISCAL IMPACT:

Annual costs associated with lateral repairs and maintenance are expected to be reduced from \$550,000 to approximately \$100,000 annually. This reduction would come about due to the elimination of private lateral repairs, although maintenance costs for conforming laterals will likely increase as more laterals are eligible for maintenance services.

ALTERNATIVES:

1. Modify the proposed ordinance; substantive amendments would require an addition public hearing for re-introduction of the ordinance;
2. Provide direction for an alternative implementation date beyond 30 days after adoption.

RECOMMENDATION:

Waive Second Reading and Adopt an Ordinance Amending Chapter 8.24, Section 8.24.200 of the San Bruno Municipal Code Relating to Private Sewer Laterals

ATTACHMENTS:

1. Proposed revised and amended ordinance for adoption: San Bruno Municipal Code section 8.24.200

DATE PREPARED:

May 21, 2015

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN BRUNO AMENDING CHAPTER 8.24, SECTION 8.24.200 OF THE SAN BRUNO MUNICIPAL CODE

The City Council of the City of San Bruno does ordain as follows:

Section 1: Chapter 8.24, section 8.24.200 is hereby amended as follows:

SECTION 8.24.200
SEWER LATERALS

Section 8.24.200 Sewer Laterals

It is the exclusive responsibility of the property owner to maintain, repair, and/or replace the property sewer laterals from the building to the sewer collector mains. The City will continue to respond to requests for emergency sewer service from residents. Where a City-approved cleanout is accessible, operable, and will not damage City equipment, staff will provide ongoing maintenance services as necessary. In circumstances where the private lateral is damaged, staff will direct homeowners to repair or replace the lateral at their expense. Sewer collector mains shall be maintained by the city.

Section 2: This amendment is not a project subject to and is thus exempt from environmental review under CEQA pursuant to the General Rule expressed in CEQA Guidelines Section 15061(b)(3). This amendment involves minor text amendments to an existing ordinance and it can be seen with certainty that the proposed amendments will have no significant negative effect on the environment.

Section 3: If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or section of the Ordinance. The City Council of the City of San Bruno hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 4. The Ordinance shall take effect and be in force thirty days from adoption.

Section 5. The City Clerk shall publish this Ordinance according to law.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

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I hereby certify that the foregoing Ordinance No. _____ was introduced on _____, 2015, and adopted at a regular meeting of the San Bruno City Council on _____, 2015, by the following vote:

AYES: COUNCILMEMBERS: _____

NOES: COUNCILMEMBERS: _____

ABSENT: COUNCILMEMBERS: _____

City Clerk



City Council Agenda Item Staff Report

CITY OF SAN BRUNO

DATE: May 26, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Angela Kraetsch, Finance Director

SUBJECT: Adopt Resolution Authorizing the City Manager to Execute an Agreement with Turbo Data Systems, Inc. for Parking Citation Processing and Adjudicating Services for a Five (5) Year Term Expiring June 30, 2020

BACKGROUND

In the late 1990's the State transferred the responsibility for parking citation processing and collection to local agencies. Rather than form a joint powers agency, it was determined to be more efficient to issue a Countywide combined request for proposal (RFP) with the successful vendor entering into individual contracts with each agency and by combining the volume of all ticketing agencies and leveraging economies of scale, the City, County and other agencies would receive the best processing rates and the highest levels of service. In 1999, the RFP was issued and Turbo Data Systems, Inc. was selected. A subsequent RFP was issued in 2006 and Turbo Data was again the vendor of choice. The City of Daly City was the lead agency for both RFP processes.

DISCUSSION

One year ago, the County agencies determined that an RFP process should be performed to ensure competitive pricing and best in industry standards. The County was selected as the lead agency and hired a consultant to assist in drafting the RFP and evaluating the responses. All of the agencies submitted letters of commitment to the RFP process, including agreement to reimburse the County for the consultant's time based on their proportionate share of parking citation volume, provide statistical data where requested to facilitate RFP development, and execute a one-year contract extension with Turbo Data in order to allow adequate time to complete the RFP process.

The RFP was issued on October 8, 2014 and advertised on the County's Procurement Website. Seven vendors expressed interest and ultimately six submitted proposals. A subcommittee with representatives from the County and the cities of Belmont, Burlingame, Daly City, San Mateo and South San Francisco was formed to vet the proposals and interview the finalists. The proposals were graded on five criteria: 1) qualifications and experience, 2) proposed approach, 3) customer service, 4) thoroughness, and 5) pricing. In addition, all vendors had to demonstrate that they had

no outstanding claims or violations, they were financially sound, and they comply with the County's contractual requirements. Based on these criteria, the sub-committee advanced three vendors to the interview process: Data Ticket, Inc., Duncan Solutions, and Turbo Data.

Following the interview process and reference checks the committee determined that Turbo Data remained the best option for the County agencies. The subcommittee felt that the online services, reports and customer service provided by all three vendors were comparable. The subcommittee rated Turbo Data and Duncan Solutions as the strongest with regard to the handheld ticket writers, which was a major factor in the final determination by law enforcement. It is expected that all agencies in the County will save significantly based on the new pricing. For example, citation processing fees will be reduced from \$1.28 to \$0.50 per electronic citation, while hand-written citations will decline from \$1.35 to \$0.80 each. Overall, agencies are expected to realize sizable savings approaching 35-40% below current costs.

Services include citation processing and collection by mail, telephone or website, multiple reminder notices, placing of DMV holds, appeals and administrative adjudication services, and optional advanced collection efforts. In addition, agencies may opt to use the Turbo Data mobile ticket writers for parking and moving citations.

San Bruno Police Department personnel annually issue just under 10,000 parking citations (year-to-date in 2014-15 totals 7,221).

FISCAL IMPACT

Based on the negotiated lower charges for services, the costs for citation processing are anticipated to decline by approximately 35-40% overall while maintaining the same quality of service. Total fees paid to Turbo Data in FY 2013-14 were \$30,901. Based on FY 2013-14 activity, it is anticipated that the City will save approximately \$11,000 per year under the new agreement. Also included as part of the contract, the City has the option to lease hand held ticket writers for \$99 per month. Staff is recommending that the City lease two hand held devices for an annual cost of \$2,376. The hand held ticket writers will allow staff to be more efficient and will reduce processing costs. Per the contract, the fee for electronic citation processing is 50¢ per citation which would amount to an annual cost of \$5,000 (based on 10,000 citations). Manual citation processing would be 80¢ or \$8,000. The \$3,000 savings in the cost for processing will more than pay for the cost of the lease. The contract term will be for five (5) years with no increase in fees during that period other than direct pass-through of any postal rate increases.

The 2014-15 Budget projects an expenditure of \$30,000 for parking ticket processing. Actual expenditures amounted to \$26,282 during the first ten-months of 2014-15. The 2014-15 Budget estimates total Parking Fine revenue to amount to \$370,000.

ALTERNATIVES

1. Do not extend the agreement. The City would seek another provider to process parking citations. The delay in finding a vendor may disrupt parking citation processing and collecting of fines.
2. Direct staff to negotiate different agreement terms with Turbo Data. The City would be unlikely to secure better contract terms on its own.

RECOMMENDATION

Adopt Resolution authorizing the City Manager to execute an Agreement with Turbo Data Systems, Inc. for Parking Citation Processing and Adjudicating Services for a five (5) year term expiring June 30, 2020.

ATTACHMENTS

1. Resolution

DATE PREPARED

May 14, 2015

REVIEWED BY

_____ CM

RESOLUTION NO. 2015-_____

RESOLUTION AUTHORIZING THE CITY MANGER TO EXECUTE AN AGREEMENT WITH TURBO DATA SYSTEMS, INC. FOR PARKING CITATION PROCESSING AND ADJUDICATING SERVICES FOR A FIVE (5) YEAR TERM EXPIRING JUNE 30, 2020

WHEREAS, the current contract will therefore expire on July 1, 2015, and

WHEREAS, a Countywide committee of involved local agencies issued a Request for Proposals for parking citation processing services; and

WHEREAS, seven vendors expressed interest and ultimately six vendors responded; and

WHEREAS, a sub-committee of representative local agencies thoroughly reviewed the six proposals received and determined that Turbo Data Systems, Inc. would best serve the City's needs; and

WHEREAS, both parties now wish to enter into an Agreement, whereby Turbo Data Systems, Inc. will provide parking citation procession and adjudication services, for a five-year period commencing July 1, 2015 until June 30, 2020, for services and fees as described in Exhibit A and Exhibit B of said Agreement; and

WHEREAS, the City has been presented with a form of such Agreement and has examined and approved same as to both form and content, and desires to enter into same;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of San Bruno hereby authorizes the City Manager to execute the Agreement with Turbo Data Systems, Inc. for parking citation processing and adjudicating services for a five (5) year term expiring June 30, 2020.

—oOo—

I hereby certify the foregoing Resolution No. 2015-_____ was introduced and adopted by the San Bruno City Council at a regular meeting on May 26, 2015 by the following vote:

AYES:

NOES:

ABSENT:

City Clerk



**City Council Agenda Item
Staff Report**

CITY OF SAN BRUNO

DATE: May 26, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Ray Razavi, Interim Public Services Director
Jimmy Tan, Deputy Public Services Director/City Engineer

SUBJECT: Adopt Resolution Accepting the Sidewalk Repair Project as Complete, Authorizing the Filing of a Notice of Completion with the San Mateo County Recorder's Office, and Authorizing Release of the Construction Contract Retention in the Amount of \$17,867

BACKGROUND:

In 2007, the City embarked on a six-year program to address all the known damaged sidewalk locations. For each year's program, staff identified the improvement locations, prepared a bid contract and advertised the project to solicit bids from contractors. From 2007 through 2013, the following three construction projects were awarded by City Council for the Sidewalk Replacement Program.

- The first project was awarded on November 13, 2007 for \$148,000
- The second project was awarded on July 28, 2009 for \$193,645
- The third project was awarded on July 12, 2011 for \$274,088.

On May 14, 2013, the City Council awarded the fourth construction contract to J.J.R. Construction, Inc. in the amount \$399,187. The project consisted of removal and replacement of concrete sidewalk at approximately 400 known damage sidewalk locations that have greater than 3/4" of displacements. The bid items also included removal and replacement of the driveway approach and curb/gutter, installation of ADA curb ramps, tree removal where necessary to prevent further sidewalk damage, concrete grinding and modification of existing drainage inlet.

Since the implementation of the program, the City has repaired over 1,240 sidewalk locations and installed 100 accessible curb ramps.

DISCUSSION:

The contractor, J.J.R. Construction Inc., has completed the project and there are no unresolved stop notices or outstanding construction claims for this project. Staff recommends that the City Council accept the construction project as complete, authorize to

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file the Notice of Completion with the San Mateo County Recorder's Office, and approve the release of the contract retention.

The construction contract required a 5% retention, which totals \$17,867.03 withheld by the City. One contract change order was issued for \$5,006 to address removal and replacement of additional asphalt pavement damaged by the City owned trees at two locations. This cost included excavation, removal and disposal of existing asphalt pavement and construction of the new asphalt pavement.

This project was scheduled to be completed in October 2014. However, time extension was provided to the contractor to allow for coordination and construction of additional sidewalk locations.

FISCAL IMPACT:

The Sidewalk Repair Project is an established Capital Improvement Program (CIP) funded through Gas Tax and Measure A. Funding in the amount of \$565,000 was appropriated in the 2012-2013 CIP budget. In conjunction with the award of the project construction contract to J.J.R. Construction, Inc., a 15% contract contingency was included to address potential unforeseen conditions during construction bringing the total construction budget for the project to \$459,065. The total construction project expenditure is \$461,067 which included the staff design, management and inspection cost in the amount of \$98,720, construction cost in the amount of \$357,341 and one change order in the amount of \$5,006.

Expenditures

Construction Contract	\$ 357,341
Change Order	\$ 5,006
<u>Staff Design, Management and Inspection</u>	<u>\$ 98,720</u>
Total Expenditures	\$ 461,067

ALTERNATIVES

1. Do not accept the construction contract as complete and do not authorize filing of a Notice of Completion.

RECOMMENDATION

Adopt resolution accepting the Sidewalk Repair Project as complete, authorizing the filing of a Notice of Completion with the San Mateo County Recorder's Office, and authorizing release of the construction contract retention in the amount of \$17,867

DISTRIBUTION:

None

ATTACHMENTS:

1. Resolution
2. Contract Acceptance and Release of Retention Information Form
3. 2012-13 CIP Budget Sheet

DATE PREPARED:

May 13, 2015

REVIEWED BY:

_____ CM

RESOLUTION NO. 2015 - ____

RESOLUTION ACCEPTING THE SIDEWALK REPAIR PROJECT AS COMPLETE, AUTHORIZING THE FILING OF A NOTICE OF COMPLETION WITH THE SAN MATEO COUNTY RECORDER'S OFFICE, AND AUTHORIZING RELEASE OF THE CONSTRUCTION CONTRACT RETENTION IN THE AMOUNT OF \$17,867

WHEREAS, the City embarked on a six-year program to address all known damaged sidewalk locations in 2007; and

WHEREAS, from 2007 through 2013, three construction projects were awarded by the City Council for the Sidewalk Replacement Program on November 13, 2007, July 28, 2009 and July 12, 2011; and

WHEREAS, on the City repaired over 1,240 sidewalk locations and installed 100 accessible curb ramps since the Sidewalk Repair Program commenced; and

WHEREAS, \$565,000 was appropriated in the 2012-17 adopted CIP budget for the project; and

WHEREAS, City Council awarded the construction contract for the project to J.J.R Construction, Inc. on May 14, 2013 in the amount of \$399,187 and authorized a construction contingency of \$59,878; and

WHEREAS, one contract change order was issued for the construction contract of this project in the amount of \$5,006 to address removal and replacement of additional asphalt pavement uprooted by City tree at two locations; and

WHEREAS, all construction work as part of this contract has been completed to the satisfaction of the City's project management team; and

WHEREAS, the construction contract requires the filing of a Notice of Completion of this project with the San Mateo County Recorder's Office and release of the construction contract retention in the amount of \$17,867.03 upon the acceptance of the project as complete.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the Sidewalk Repair Project as complete, authorizes the filing of a Notice of Completion with the San Mateo County Recorder's Office, and authorizes release of the construction contract retention in the amount of \$17,867.

Dated: May 26, 2015

ATTEST:

Carol Bonner, City Clerk

I, Carol Bonner, City Clerk, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of San Bruno this 26th day of May 2015 by the following vote:

AYES: Councilmembers: _____

NOES: Councilmembers: _____

ABSENT: Councilmembers: _____



PUBLIC SERVICES DEPARTMENT

Capital Improvement Program

Project Acceptance Information Form

As of Date: May 26, 2015

Project Information:

Contract Name	Sidewalk Repair Program	Contract Number	83908
Project Manager	Nader Dahu		
Design & Construction Support	City Staff	Construction Contractor	J.J.R. Construction, Inc.
Design Contract Award Date:	N/A		
Construction Contract Award Date:	May 14, 2013		
Start of Construction:	October 11, 2013		
Contract Change Orders (CCO):	One (1) – Removal and replacement of additional asphalt pavement uprooted by City tree at two locations which were not included in the bid prices. As a result, CCO was issued to address the additional work.		
Substantial Completion:	February 27, 2015		
Final Completion:	April 16, 2015		
Notice of Completion:	Scheduled for filing on May 27, 2015		

Project Description:

The work consisted of, in general, but was not limited to providing traffic control system; providing construction signs; removal and disposal of all excavated material; saw cutting existing asphalt concrete pavement and concrete curb, gutter and sidewalk; removal and replacement of concrete sidewalk and driveway; reconstruction of existing pavement; and furnishing all labor, materials, equipment, tools, and all other associated work such that the sidewalks, curbs, gutters and driveways are installed in accordance with the City's standard specifications.

Project Cost:

	Budget	Actual
TOTAL PROJECT	\$ 565,000	\$ 461,067
Construction Contract	\$ 399,187	\$ 357,341
Contingency	\$ 59,878	\$
Change Orders	\$ -	\$ 5,006
Staff Design, Management and Inspection	\$ 105,935	\$ 98,720
Other Miscellaneous Expense		\$

Sidewalk Repair Project

PROJECT INFORMATION

Origination Year: 2004-05	Project Number: 83908
Projected Completion Date: Ongoing Program	Life Expectancy: 25-30 Years
Total Project Cost: \$ 1,986,404	

Project Description:

This project repairs sidewalk caused by deterioration from environmental wear and tear, vehicles, and street trees. Of the more than 3,000 locations with sidewalk separations greater than 3/4-inch identified in a 2004 survey, over 1,000 have been repaired. This work effort is guided by the following six-year sidewalk repair program approved by the City Council in 2007:

1. Repair sidewalk with offsets greater or equal to 3/4", cracks greater than or equal to 3/4", and bumps or dips over 4" horizontal in 4" vertical;
2. Repair the most severe City responsible damaged locations with an offset of 1.5" or greater;
3. Implement a voluntary property owner participation program to encourage property owners to repair private responsible damaged locations;
4. Repair all damaged locations adjacent to City owned property;
5. Implement a comprehensive area-by-area repair of the reminding sidewalk damage where offset is greater or equal to 3/4" which would include City repair of City responsibility along with notice to private property owners regarding their repair responsibilities and possible cooperating for City to assist in administering private repair work; and
6. Evaluate the program annually and modify as necessary.

In 2008, the City Council modified the sidewalk repair program as follows:

1. Continue to repair the most severe City responsible damaged locations with offset of 1.5" or greater;
2. Repair City responsible damaged locations in the Pedestrian Emphasis Zone (PEZ) and fund 25% of repair cost for private responsible locations in the PEZ; and
3. Repair City responsible damage locations in neighborhood areas - divided into eight separate zones - in the order of Zone 4, Zone 2, Zone 6, Zone 3, Zone 5, Zone 1, Zone 8, and Zone 7.

To complete the six-year program on schedule, staff proposes repairing all of the remaining City-responsible sidewalk repair locations that were previously identified in fiscal year 2012-13. Future work to address new sidewalk offsets is funded at an annual level of \$50,000 per year for City-responsible locations, and an estimated \$25,000 allocated for voluntary homeowner participation.

2011-12 Status:

Over the last two years, approximately 120 locations of City-responsible locations with offsets greater than 1.5" and continued the voluntary homeowner participation program.

2012-13 Work Plan:

Prepare specifications for the next construction contract, which will complete all remaining City responsible sidewalk repairs, approximately 570, in the order of neighborhood zones approved by the City Council, and continue the voluntary homeowner component.

Project Appropriations:
Current Year Appropriations:

Funding Source	Prior Appropriation	Prior Expense	Carryover Appropriation	2012-13 Funding Request	2012-13 Total Funds Available
ABAG Grant	10,000	(10,000)	0	0	0
CIWMB Grant	25,030	(25,030)	0	0	0
Gas Tax	314,813	(314,813)	0	257,500	257,500
Homeowner Participation	145,024	(145,024)	0	50,000	50,000
Measure A	293,937	(293,937)	0	257,500	257,500
Lifeline Grant (Prop 1B)	207,600	(51,456)	156,144	0	156,144
Streets Capital	100,000	(100,000)	0	0	0
Stormwater	25,000	0	25,000	0	25,000
Total	1,121,404	(940,260)	181,144	565,000	746,144

Five-Year Work Program Appropriations:

Funding Source	2012-13	2013-14	2014-15	2015-16	2016-17	Total Future Request
Gas Tax	257,500	25,000	25,000	25,000	25,000	357,500
Homeowner Participation	50,000	25,000	25,000	25,000	25,000	150,000
Measure A	257,500	25,000	25,000	25,000	25,000	357,500
Total	565,000	75,000	75,000	75,000	75,000	865,000



City Council Agenda Item Staff Report

CITY OF SAN BRUNO

DATE: May 26, 2015

TO: Honorable Mayor and Members of the City Council

FROM: David Woltering, Community Development Director

SUBJECT: Hold Public Hearing, Adopt Resolution Amending the General Plan to Allow Emergency Shelters for the Homeless in the Industrial Land Use Classification and Waive First Reading and Introduce Ordinance Adding Provisions to the San Bruno Municipal Code Related to Emergency Shelters for the Homeless and Amending the Zoning Map of the San Bruno Municipal Code Identifying an Emergency Shelter Overlay District

BACKGROUND

The purpose of this item is for the City Council to consider approval of a zoning code amendment, including a Zoning District Overlay Map, to allow emergency shelters for the homeless (Emergency Shelter Ordinance, shown in Attachment 2) as a permitted use in a portion of the M-1 Industrial zoning district, located in the northeast portion of the City following a public hearing on the matter, in accordance with State law. In addition, the City Council will consider a General Plan Amendment to add emergency shelters as an allowed use within the Industrial Land Use Classification. (Attachment 1)

The actions would implement Program 6-D of the City's prior 2009-2014 Housing Element. On April 14, 2015, the City Council adopted a new Housing Element for the 2015-2023 planning period, which carries forward Program 6-D from the prior Housing Element. The new Housing Element must be certified by the California Housing and Community Development Department (HCD) for compliance with State law. HCD has indicated that, while the new Housing Element meets the statutory requirements of State housing element law, it will not be in full compliance until the City completes the required action to permit emergency shelters. However, HCD will issue "qualified" certification for the new City-adopted Housing Element, and acknowledges full certification when the City completes this zoning amendment.

Emergency shelter zoning is mandated by Senate Bill 2 (SB2) (California Government Code Section 65583(a)(4)), which required every jurisdiction in California to identify at least one zone where emergency homeless shelters may be permitted by right with sufficient capacity to accommodate the local need for emergency shelter beds. San Bruno's identified need was for an additional 32 emergency shelter beds, based on the San Mateo County Homeless Census conducted in 2009, as specified by SB2. At this time, the City is required to identify and approve such a zone by ordinance to obtain full

certification of its new Housing Element by HCD, and to be eligible for several housing, community development and infrastructure funding programs, including the OneBayArea Grant Program. State law does not require the City to construct an emergency shelter. The City has no plans to build a shelter, and there are no plans to build a shelter by any other agency at this time.

The City Council considered two potential locations for the emergency shelter zone: 1) the Transit Oriented Development (TOD) General Plan Land Use District along San Bruno Avenue and El Camino Real near the San Bruno Avenue Caltrain Station; and 2) the northern portion of the M-1 Industrial Zoning District in the northeastern portion of the City. The City Council and Planning Commission held workshops and public meetings in 2014 and early 2015 to review the alternatives and receive public input. The City Council held a study session on the matter on February 26, 2015 and, based on deliberation and feedback from the public, identified the M-1 district as the preferred location for an emergency shelter zone. The TOD area was considered less suitable because of its proximity to residential neighborhoods and the existing homeless shelter at Saint Bruno's Church, and the potential negative effects of an additional shelter on quality of life in that area. The M-1 District was preferred because, not only is it near public transportation and commercial services, but it is also separated from residential neighborhoods, and a shelter would have less of an effect on residents and retail businesses.

On April 21, 2015, the Planning Commission conducted a public hearing to review and make a recommendation to the City Council on the proposed Emergency Shelter Ordinance and related entitlement actions. Six members of the public spoke at the meeting. Four of these people opposed allowing shelters in the TOD District, and two opposed them in the M-1 Industrial district. See Attachment 4 for the Meeting Minutes and written comments from the public. The Planning Commissioners concluded that there is no ideal location, but the M-1 district makes the most sense and would have the least impact on residential neighborhoods. The Planning Commission voted five to one in favor of recommending that the City Council adopt the Emergency Shelter Ordinance and Resolution Amending the General Plan. Attachment 3 contains Planning Commission Resolution No. 2015-03.

DISCUSSION

The proposed Emergency Shelter Ordinance would amend the Municipal Code to add the Emergency Shelter Overlay District for the homeless as a permitted use in the M-1 Industrial district as shown in Attachment 2. The General Plan Amendment would revise the Industrial Land Use Designation to include emergency shelters as a permitted use within an Emergency Shelter Overlay Zoning District.

The amendment would add the definition of Emergency Shelters contained in Health and Safety Code Section 50801(e), as follows: "Emergency shelter is defined as housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay."

The proposed Emergency Shelter Overlay is approximately 5.5 acres bounded by San Mateo Avenue to the east, the railroad tracks to the west, Tanforan Avenue to the north and Atlantic Avenue to the south (including twelve parcels south of Atlantic Avenue). The M-1 district is close to public transportation and support services and would have minimal impact on residential neighborhoods.

The Emergency Shelter Overlay District would allow emergency shelters for the homeless to be developed in a manner which protects the health, safety, and general welfare of the community. SB2 allows the City to require reasonable and objective standards for locating emergency shelters. Therefore, the proposed ordinance incorporates development and performance standards for emergency shelters, as detailed in Section 3 of the Emergency Shelter Ordinance in Attachment 2.

Adoption of the proposed Emergency Shelter Ordinance would meet of State law requirements by completing the required implementation actions for the prior 2009-2014 Housing Element. The action would allow HCD to remove the “qualified” certification of the City’s adopted 2015-2023 Housing Element to be fully compliant with State housing element law. The proposed ordinance incorporates development and performance standards to ensure that the development of emergency shelters does not adversely impact adjacent parcels or the surrounding neighborhood and would be developed in a manner which protects the health, safety, and general welfare of the community.

Planning Commission Findings

The Planning Commission made the following findings of facts in support of the proposed Emergency Shelter Ordinance and resolution amending the General Plan:

1. The proposed Municipal Code are consistent with the General Plan of the City of San Bruno with the proposed General Plan text amendment.
2. The request to amend the San Bruno Municipal Code has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and the San Bruno environmental review procedures (see below).
3. The proposed Municipal Code Amendment to implement the adopted Housing Element will not be detrimental to the health, safety, morals, comfort and general welfare of the Citizens of San Bruno.

Environmental Analysis

The proposed ordinance to designate a zone where emergency shelters are allowed by right is an implementation action contained in San Bruno’s adopted Housing Element. The potential environmental effects of Housing Element programs were reviewed within the Initial Study and Negative Declaration prepared for the Housing Element. The Initial Study showed that implementation of Housing Element policies and programs would not result in adverse effects on the environment. A Negative Declaration was approved by the City Council on April 14, 2015. Any future individual development projects will be subject to additional environmental review.

Next Steps

If the City Council approves the Emergency Shelter Ordinance at this first reading, a second reading would be required no less than ten days after the initial approval. The ordinance would become effective 31 days after the second reading adoption by the City Council. The ordinance would then be forwarded to HCD. HCD has indicated that once it receives the adopted ordinance, the qualification on the certification of the City's adopted 2015-2023 Housing Element would be lifted and the Element would be fully certified.

FISCAL IMPACT

Adoption of the Emergency Shelter Ordinance does not commit the City to any action that would have a financial impact on the City. In the event that the City receives an application for development of an emergency shelter, construction and management would likely be undertaken by a non-profit entity using non-City funding sources. Planning approvals and building permits would occur through the City's normal development review process. Oversight of such a facility could also involve some City Staff time.

ALTERNATIVES

1. Do not approve proposed Emergency Shelter Ordinance
2. Propose changes to the Emergency Shelter Ordinance

RECOMMENDATION

Hold Public Hearing, Adopt Resolution Amending the General Plan to Allow Emergency Shelters for the Homeless in the Industrial Land Use Classification and Waive First Reading and Introduce Ordinance Adding Provisions to the San Bruno Municipal Code Related to Emergency Shelters for the Homeless and Amending the Zoning Map of the San Bruno Municipal Code Identifying an Emergency Shelter Overlay District

ATTACHMENTS

1. City Council Resolution – General Plan Amendment
2. City Council Ordinance – Zoning Code Amendment (including Overlay District Map)
3. Planning Commission Resolution 2015-03
4. Planning Commission Minutes and written communications from the public

DATE PREPARED

May 21, 2015

REVIEWED BY

_____ CM

RESOLUTION NO. 2015 – __

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN BRUNO
AMENDING THE SAN BRUNO 2009 GENERAL PLAN TO ENSURE
CONSISTENCY WITH A MUNICIPAL CODE AMENDMENT RELATED TO
PROVISIONS FOR EMERGENCY SHELTERS FOR THE HOMELESS**

WHEREAS, consistent with provisions of state law and Housing Element Program 6-D, the City of San Bruno has prepared a draft ordinance amending Title 12 (Land Use) of the San Bruno Municipal Code to allow emergency shelter use within a proposed Emergency Shelter Overlay District; and

WHEREAS, the 2009 General Plan Industrial Land Use Classification does not include emergency shelters as a permitted land use, and the City proposes to locate the proposed Emergency Shelter Overlay District within a portion of the Industrial District; and

WHEREAS, to achieve consistency between the General Plan and the proposed ordinance allowing emergency shelters within the Industrial District, the General Plan must be amended. The proposed General Plan amendment would revise the description of the Industrial land use classification as follows:

Industrial

Allows 1.5 maximum FAR. Industrial permits a variety of business and industrial uses, including: research and development facilities; high-technology offices; light manufacturing and fabrication; industrial processing; general service; warehousing, storage and distribution; auto mechanics and body repair; parking facilities; biotechnology; **and** service commercial; **and emergency shelters (only within an Emergency Shelter Overlay District)** uses. Development may be clustered in a campus setting. All development will be subject to high design and landscape standards.

WHEREAS, the Initial Study and Negative Declaration prepared for adoption of the Housing Element found that implementation the programs outlined in the Housing Element, including Program 6-D related to provisions for emergency shelters for the homeless, would not result in adverse effects on the environment; and

WHEREAS, on April 21, 2015 the Planning Commission of the City of San Bruno reviewed and considered the amendments to the San Bruno 2009 General Plan and adopted Resolution No. 2015-03 recommending that the City Council amend the San Bruno 2009 General Plan to ensure consistency with the proposed ordinance allowing emergency shelters within the Industrial District; and

WHEREAS, on _____, the City Council of the City of San Bruno, conducted a duly-noticed public hearing pursuant to Section 65353 of the California Government Code to consider the above-described amendment to the General Plan; and

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of San Bruno, based on the facts in the staff reports, written and oral testimony, and exhibits presented, that the City Council hereby approves an amendment to the San Bruno 2009 General Plan as described in this Resolution to ensure consistency between the proposed ordinance and the General Plan.

Dated: _____

Mayor

ATTEST:

APPROVED AS TO FORM:

City Clerk

City Attorney

I, Carol Bonner, City Clerk, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of San Bruno this ___ day of _____ 2015 by the following vote:

AYES: Councilmembers: _____

NOES: Councilmembers: _____

ABSENT: Councilmembers: _____

ORDINANCE NO. 2015-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN BRUNO ADDING PROVISIONS TO THE SAN BRUNO MUNICIPAL CODE RELATED TO EMERGENCY SHELTERS FOR THE HOMELESS AND AMENDING THE ZONING MAP OF THE SAN BRUNO MUNICIPAL CODE IDENTIFYING AN EMERGENCY SHELTER OVERLAY DISTRICT

WHEREAS, California State law requires that all local governments adopt a Housing Element as one of the seven mandated elements of the General Plan; and

WHEREAS, the City Council adopted the 2015-2023 Housing Element on April 14, 2015,

WHEREAS, in 2008, the State legislature passed Senate Bill 2 (California Government Code Section 65583(a)(4)), which requires jurisdictions to identify at least one zone where emergency homeless shelters may be permitted by right with sufficient capacity to accommodate the local need for emergency shelters; and

WHEREAS, the Housing Element carries forward Program 6-D from the prior 2009-2014 Housing Element, requiring amendment to Title 12 of the San Bruno Municipal Code related to provisions for emergency shelters, which must be completed in order to be in compliance with State law; and

WHEREAS, on April 21, 2015 the Planning Commission conducted a duly noticed public hearing and passed a resolution recommending that the City Council adopt said ordinance related to provisions for emergency shelters; and

WHEREAS, on _____ the City Council conducted a duly noticed public hearing and the City Council introduced said Ordinance.

NOW, THEREFORE, the City Council of the City of San Bruno hereby ordains as follows:

SECTION 1: Section 12.80.212 [Emergency Shelter] is hereby added to Chapter 12.80 [Definitions] of Title 12 [Land Use] as follows:

Emergency shelter means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay. (Health and Safety Code Section 50801(e)).

ATTACHMENT 2

SECTION 2: Section 12.96.010 [Established (districts)] is hereby amended to include; ***(ES) Emergency Shelter Overlay District.***

SECTION 3: Section 12.96.150 (M-1 industrial district) is amended by adding Subsection 12.96.150.B.3 as follows:

A. Purpose. To establish areas for warehousing, light manufacturing, and fabrication.

B. Permitted Uses. The following uses, conducted entirely within an enclosed structure, are permitted in the M-1 district:

1. Warehouses and storage;
2. Light manufacturing, fabricating.
3. ***Emergency shelters; subject to the provisions set forth in Section 12.96.205.***

[The remainder of Section 12.96.150 remains unchanged.]

SECTION 3: Section 12.96.205 [Emergency Shelter Overlay] is hereby added to Chapter 12.96 [Zoning] of Title 12 [Land Use] of the San Bruno Municipal Code (the San Bruno Zoning Code) to read as follows:

12.84.205 Emergency Shelter Overlay

A. Purpose. *The purpose of this section is to ensure that the development of emergency shelters for the homeless do not adversely impact adjacent parcels or the surrounding neighborhood, and to ensure they are developed in a manner which protects the health, safety, and general welfare of the community.*

B. Description of Area. *The properties as shown in the Emergency Shelter Overlay zone map set out at the end of this chapter, are included within the Emergency Shelter Overlay (ES) district.*

C. Permitted Uses. *See Section 12.96.150(B)*

D. Development Regulations. *An emergency shelter for the homeless shall conform to all site development standards of Section 12.96.150(D), M-1 Industrial District, except as follows:*

1. Property Development Standards. *The construction of and/or renovation of a building for use as an emergency shelter shall conform to all applicable Building and Fire Code standards.*

2. Off-street Parking. *Emergency shelters shall provide one parking space for each employee or volunteer on duty when the shelter is fully open to clients, plus one parking space for every three beds dedicated for family sheltering, plus 0.35 parking spaces for each dedicated non-family bed. The Community Development Director may reduce the parking requirements if the emergency shelter can demonstrate a lower parking demand.*

3. *The emergency shelter shall also provide 0.2 bicycle parking spaces per bed.*

E. Performance standards. A shelter for the homeless shall conform to all City performance standards.

1. *Maximum number of persons/beds. No emergency shelter for the homeless shall contain more than 32 beds.*

2. *Waiting and client intake areas. The size of indoor waiting areas shall be sufficient to accommodate the expected number of clients without infringing upon the public right-of-way. Shelters shall provide 10 square feet of interior waiting and client intake space per bed. In addition, there shall be two offices or cubicles for shelters with fewer than 20 beds. For every additional bed there shall be an additional 0.1 office, rounded up. At least 25 percent of the offices, rounded up, shall be private. Waiting and intake areas may be used for other purposes as needed during operations of the shelter.*

3. *Facility Requirements. Each facility shall include a written management plan that uses best practices to address homeless needs (e.g., the latest Quality Assurance Standards developed by the San Mateo County HOPE Quality Improvement Project) and subject to review and approval by the Community Development Director.*

4. *On-site management. On site management shall be provided during the hours that the shelter is in operation. The emergency shelter provider shall submit a written operations plan that includes procedures for screening residents to ensure compatibility with services provided at the facility.*

5. *Hours of Operation. Clients shall only be on site and admitted to the facility between 5:00 p.m. and 10:00 a.m.*

6. *On-site security. Shelters must maintain a security and emergency plan and train staff about the plan. Shelters must install an indoor/outdoor video surveillance system for security purposes. Security plans shall be submitted to City staff for review and approval prior to issuance of an occupancy permit. Security plans shall be resubmitted to City staff on an annual basis.*

7. *Coordination. The shelter operator shall establish a liaison staff to coordinate with City, Police, School District officials, local businesses, and residents on issues related to the operation of the facility.*

8. *Length of stay. Temporary shelter shall be available to residents for no more than 60 days. Extensions up to a total stay of 180 days may be provided if no alternative housing is available.*

9. *Lighting. Adequate external lighting shall be provided for security purposes. The lighting shall be sufficient to provide illumination and clear visibility to all outdoor areas, with minimal spillover on adjacent properties. The lighting shall be stationary, directed away from adjacent properties and public rights-of-way, and of an intensity compatible with the neighborhood.*

10. Nondiscretionary design review. *In addition to non-discretionary design standards required for other housing in the zone, emergency shelters shall meet the following requirements:*

- a. Shelters shall have designated smoking areas that are not visible from the street.*
- b. There shall be no space for outdoor congregating in front of the building adjacent to the street and no outdoor public telephones.*
- c. There shall be a refuse area screened from view.*

11. Modification to a performance standard may be permitted subject to approval of a use permit by the Planning Commission.

Section 5. Validity. The City Council of the City hereby declares that should any section, paragraph, sentence or work of this code as adopted and amended herein be declared for any reason to be invalid, it is the intent of the City Council of the City that it would have passed all other portions or provisions of this Ordinance independent of the elimination here from any such portion or provision as may be declared invalid.

Section 6. This Ordinance has been reviewed with respect to applicability of the California Environmental Quality Act (CEQA). The proposed zoning ordinance amendment is an Implementation Actions contained in the current Housing Element to carry out housing programs, as required by State law. The potential environmental impacts of implementation of the Housing Element programs were reviewed as a part of the Negative Declaration prepared for the Housing Element. This document determined that no adverse environmental impacts would result from implementation of the policies and programs outlined in the Housing Element, and the Negative Declaration and Housing Element were approved by the City Council on April 14, 2015.

Section 7. This Ordinance shall be published as required by law and shall be in force 30 days after its adoption.

Dated:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

Marc Zafferano, City Attorney

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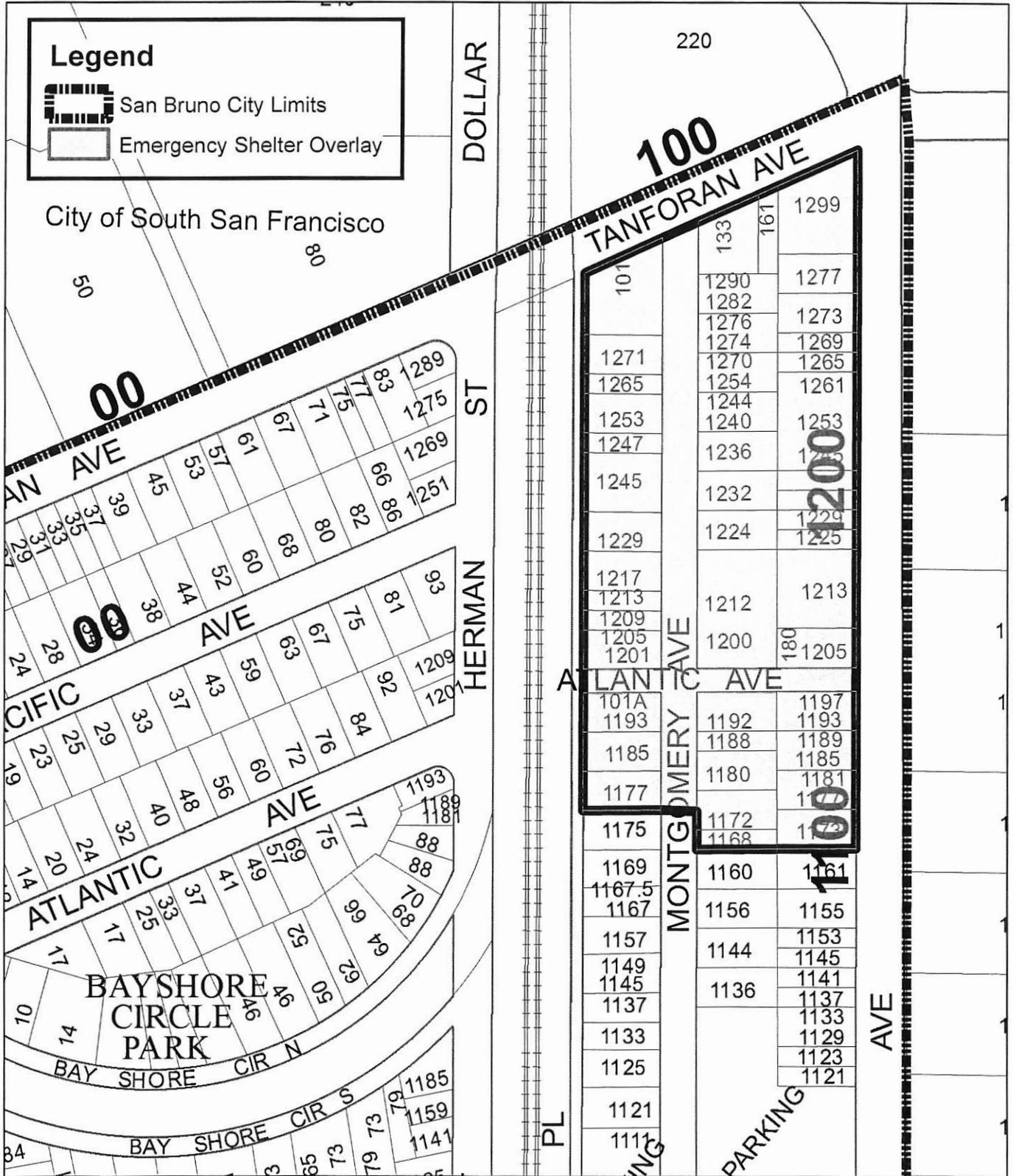
I hereby certify that the foregoing Ordinance No. XXXX was introduced on _____, 2015 and adopted at a regular meeting of the San Bruno City Council on _____, 2015, by the following vote:

AYES: COUNCILMEMBERS: _____
NOES: COUNCILMEMBERS: _____
ABSENT: COUNCILMEMBERS: _____

City Clerk

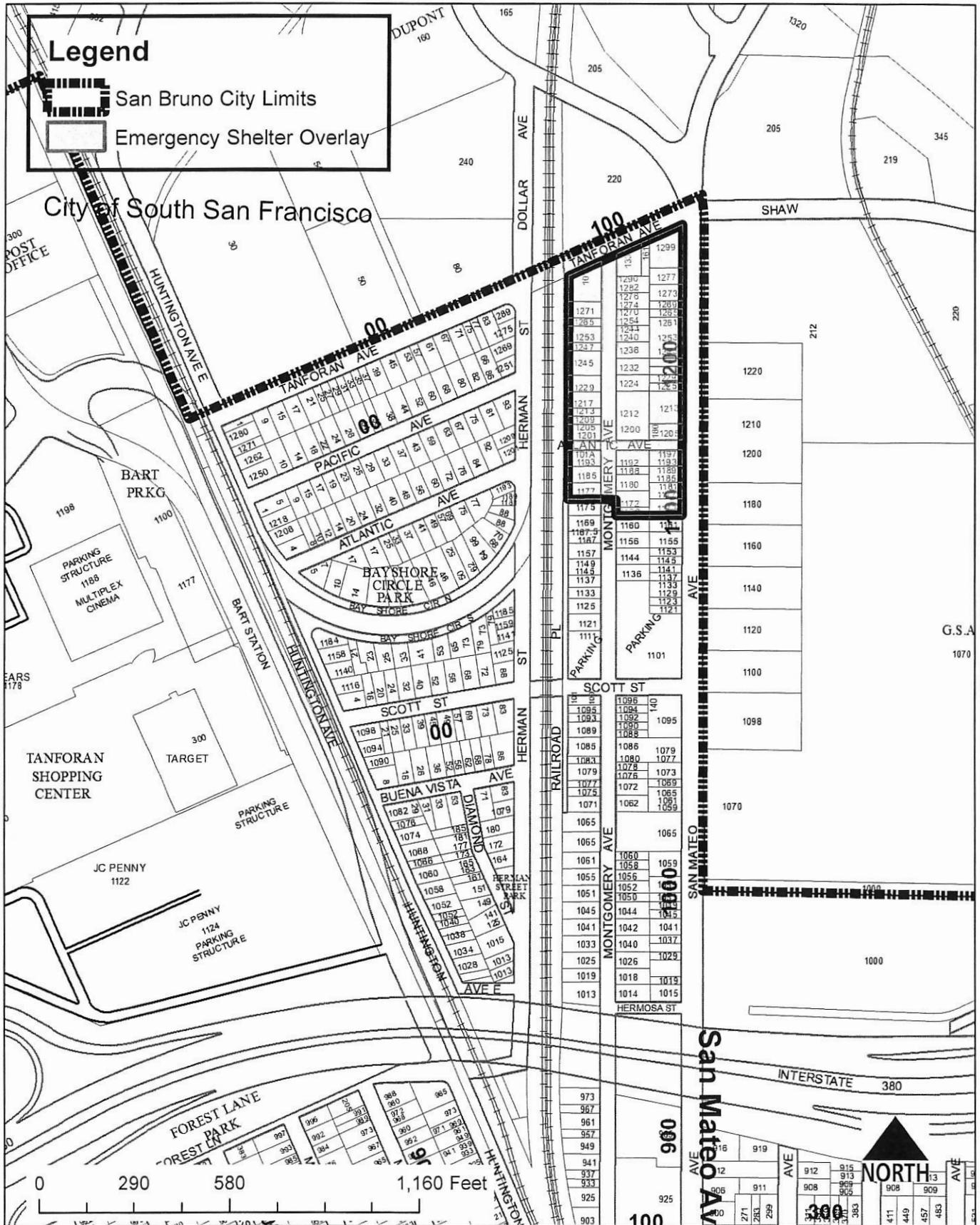


Proposed Emergency Shelter Overlay District (M-1) Industrial Zoning District City of San Bruno





Proposed Emergency Shelter Overlay District (M-1) Industrial Zoning District City of San Bruno



RESOLUTION NO. 2015 – 03

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
SAN BRUNO RECOMMENDING CITY COUNCIL ADOPTION OF AN
ORDINANCE ADDING PROVISIONS TO THE SAN BRUNO MUNICIPAL
CODE RELATED TO EMERGENCY SHELTERS FOR THE HOMELESS
AND AMENDING THE ZONING MAP OF THE SAN BRUNO MUNICIPAL
CODE IDENTIFYING AN EMERGENCY SHELTER OVERLAY DISTRICT**

WHEREAS, the City Council adopted the 2015-2023 Housing Element on April 14, 2015; and

WHEREAS, Housing Element Program 6-D was carried forward from the prior 2009-2014 Housing Element, which requires the City to identify at least one zone where emergency shelters for the homeless may be permitted by right with sufficient capacity to accommodate the local need for emergency shelters in order to be in compliance with State law California Government Code Section 65583(a)(4); and

WHEREAS, the City has prepared a draft Ordinance amending Title 12 (Land Use) of the San Bruno Zoning Code to add the Emergency Shelter Overlay District to implement Housing Element Program 6-D; and

WHEREAS, the Initial Study and Negative Declaration prepared for adoption of the Housing Element found that implementation the programs outlined in the Housing Element, including Program 6-D related to emergency shelters for the homeless, would not result in adverse effects on the environment; and

WHEREAS, the Planning Commission finds that the proposed Ordinance to allow emergency shelters will be consistent with the San Bruno 2009 General Plan with the approval of a General Plan amendment adding emergency shelters as a permitted land use within the Industrial District; and

WHEREAS, on April 21, 2015 the Planning Commission conducted a duly noticed public hearing to review and make a recommendation to the City Council on the proposed Ordinance, attached hereto, and on said date the public hearing was opened, held and closed.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission, based on the facts in the Staff Report, written and oral testimony, and exhibits presented, makes the following findings of facts in support of the proposed Ordinance amendment and resolution amending the General Plan related to provision for emergency shelters:

1. The proposed Municipal Code Amendments will be consistent with the General Plan of the City of San Bruno with the proposed General Plan amendment.

2. The request to amend the San Bruno Municipal Code has been reviewed according to the standards and requirements of the California Environmental Quality Act (CEQA) and the San Bruno environmental review procedures. The proposed amendment is an Implementation Action contained in the current Housing Element to carry out housing programs. The potential environmental impacts of implementation of the Housing Element programs were reviewed as a part of the Negative Declaration prepared for the Housing Element. This document determined that no adverse environmental impacts would result from implementation of the policies and programs outlined in the Housing Element, and the Negative Declaration and Housing Element were approved by the City Council on April 14, 2015.
3. The proposed Municipal Code Amendment to implement the adopted Housing Element will not be detrimental to the health, safety, morals, comfort and general welfare of the Citizens of San Bruno.

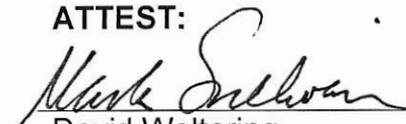
BE IT FURTHER RESOLVED that the Planning Commission of the City of San Bruno recommends that the attached ordinance and resolution be adopted by the City Council.

Dated: 21 May 2015



Planning Commission Chair

ATTEST:



David Woltering,
Planning Commission Secretary

APPROVED AS TO FORM:



Marc Zafferano, City Attorney

I, Mark Sullivan, standing in for David Woltering as Planning Commission Secretary, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the Planning Commission of the City of San Bruno on this 21st day of April, 2015 by the following vote:

AYES: Commissioners: Chair Johnson, Biasotti, Mishra, Peterson

NOES: Commissioners: Sammut

ABSENT: Commissioners: Vice Chair Chase



Mary Lou Johnson, *Chair*
Kevin Chase, *Vice Chair*
Rick Biasotti
Sujendra Mishra
Perry Petersen
Joe Sammut

**MINUTES
PLANNING COMMISSION MEETING**

April 21, 2015

7:00 p.m.

Meeting location: Senior Center, 1555 Crystal Springs Road, San Bruno

CALL TO ORDER at 7:00 pm.

ROLL CALL

	<u>Present</u>	<u>Absent</u>
Chair Johnson	X	
Vice Chair Chase		X
Commissioner Biasotti	X	
Commissioner Mishra	X	
Commissioner Petersen	X	
Commissioner Sammut	X	

STAFF PRESENT:

Planning Division:

Long Range Planning Manager: Mark Sullivan
Associate Planner: Matt Neuebaumer
Community Development Technician: Brian Paland

Pledge of Allegiance: Commissioner Sammut

1. Approval of Minutes (March 17, 2015) – Petersen/Biasotti

VOTE: 5-0
AYES: Commissioners Sammut, Biasotti, Johnson, Petersen, Mishra
NOES: None
ABSTAIN: None

2. Communication – None

3. Public Comment – None

Christine Price (823 Mills Ave.) – Noted that the streets on the East side of El Camino Real are in need of repaving.

17. The applicant shall provide emergency contact information to the Police Department and list personnel that will be able to respond to the location 24 hours a day and seven days a week, if a problem arises.
18. All construction materials and supplies shall be located on the subject site behind the 6'-0" fence. No construction material or supplies shall be left outside the storage area or on the street.

C – Review of 2015-2023 Housing Element

Request Consideration of an Ordinance to Amend Title 12 Land Use of the San Bruno Municipal Code to Add an Emergency Shelter Overlay District to Allow Emergency Shelters for the homeless as a Permitted Use within a portion of the M-1 Industrial Zoning District, Subject to Design and Performance Standards.

Long Range Planning Manager Sullivan: Entered staff report.

Staff recommends that the Planning Commission adopt Resolution No. 2015-03 (Exhibit B), based on Findings of Fact 1-3, recommending that the City Council adopt an Ordinance amending Title 12 (Land Use) of the San Bruno Municipal Code to implement Program 6-D in the City's 2009-2014 Housing Element to make the following changes:

1. A General Plan text amendment revising the Industrial Land Use designation to include emergency shelters as a permitted use within an Emergency Shelter Overlay Zone; and
2. Amend Chapter 12.80 (Definitions) to add a definition for Emergency Shelters, to comply with the definitions found in State law and to conform to the requirements of Government Section Code 65583; and
3. Amend Sections 12.96.010 (Established) to add "ES Emergency Shelter Overlay District" and 12.96.150 (Land Uses for M-1 Industrial District) to add Emergency Shelters for the homeless as a permitted use in the Emergency Shelter Overlay District; and
4. Add Section 12.96.205 (Emergency Shelter Overlay) to Title 12 (Land Use) of the San Bruno Municipal Code to allow emergency homeless shelters as a permitted use subject to performance and design standards.

Questions for Staff

Commissioner Mishra: Asked if the current Municipal code allows for liquor stores in the area. Additionally, asked if staff would include a condition to allow for Closed Circuit Television on sites that are developed with a shelter. Also, asked if there is a regulation on the distance between shelters.

Long Range Planning Manager Sullivan: Current code does not allow liquor stores in the area. A condition requiring CCTV can be added. The maximum number of beds is 32, to meet the identified need in San Bruno. Generally, cities require a 300 foot radius between shelters.

Commissioner Biasotti: Exhibit A shows the M1 district and TOD district. Clarified two items: 1. In making the decision tonight, the commission will be eliminating the TOD district for the potential siting of an Emergency Shelter. 2. The total number of beds provided would be 32.

Commissioner Petersen: Staff handed the Commission a packet of communications dating from April 13. Inquired as to why they were not included in the Commission packet.

Commissioner Biasotti: Asked for a few minutes to review the communications.

Open Public Comment

Christine Price (Mills Avenue): The community is confused by the notice which stated that the Planning Commission would consider the TOD as an alternative to M1. Wanted a record showing the TOD was not being considered.

Commissioner Biasotti and Staff confirmed that the TOD is not being considered.

Nick Grasso (Masson Avenue): Would like to go on record that the TOD or Commercial Zone is not appropriate for a shelter. The majority of the police calls in the Downtown Business District are related to the homeless. He feels that a shelter would attract more homeless to San Bruno.

Eris Raxton (Montgomery Avenue): As a longtime resident and small business owner in San Bruno, he has observed the disappearance of opportunity for small businesses. He is concerned that this type of zoning would diminish those opportunities for small businesses.

Christopher Blancarte (Kains Avenue): Asked if the 32 beds included the 10 beds currently provided at St. Bruno's Church. These two neighborhoods take the impact of the homeless people. Asked them consider another location.

Long Range Planning Manager Sullivan: San Bruno identified a need for an additional 32 beds over the 10 provided at St. Bruno's Church.

Von Gregory (Green Avenue): This neighborhood has withstood impact from the homeless for a number of years with homeless people living in Forrest Lane Park.

Shirley Allen (Mills Avenue): This area has been overly impacted for a number of years with BART and Caltrain construction.

Chair Johnson: Reaffirmed that the Commission has reached a point where a decision, while difficult, must be made in order to move forward with the Housing Element. Asked Mr. Sullivan to address some of the requirements of the state law.

Long Range Planning Manager Sullivan: The State Law is written in such a way to distribute the responsibility throughout the county. The homeless count includes sheltered homeless and unsheltered homeless. The idea is to accommodate the unsheltered homeless in each community. San Bruno's share is 32 out of the 1300 in San Mateo County. Reaffirmed that this is not a requirement to build homeless shelters. A great deal of the funding is being devoted to treatment and support services, particularly to military veterans. In fact, the number of veterans on the street has declined dramatically in the last few years. Adopting this ordinance does not mean a shelter will be built, it only allows for a shelter to be built if one is proposed. No shelters have been built in the County in the past five years.

Commission Discussion

Commissioner Mishra: Would like to add a condition for a provision for closed circuit television for security purposes on any proposed facilities.

Commissioner Sammut: Does not like the location. It is not appropriate for a shelter of any kind. The location is not close to transportation or schools. Homeless people are not all undesirable people, they just may be out of a home for whatever reason. He will not be voting for this location.

Commissioner Petersen: He will be voting for this because the State of California is essentially holding our Housing Element hostage until this is approved. He does not believe that a shelter will be built in the immediate or even more distant future.

Motion that the Planning Commission adopt Resolution No. 2015-03 (Exhibit B), based on Findings of Fact 1-3, recommending that the City Council adopt an Ordinance amending Title 12 (Land Use) of the San Bruno Municipal Code to implement Program 6-D in the City's 2009-2014 Housing Element to make the following changes:

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- 2. Amend Chapter 12.80 (Definitions) to add a definition for Emergency Shelters, to comply with the definitions found in State law and to conform to the requirements of Government Section Code 65583; and**
- 3. Amend Sections 12.96.010 (Established) to add "ES Emergency Shelter Overlay District" and 12.96.150 (Land Uses for M-1 Industrial District) to add Emergency Shelters for the homeless as a permitted use in the Emergency Shelter Overlay District; and**
- 4. Add Section 12.96.205 (Emergency Shelter Overlay) to Title 12 (Land Use) of the San Bruno Municipal Code to allow emergency homeless shelters as a permitted use subject to performance and design standards. recommend that the San Bruno City Council approve the Initial Study/Negative Declaration (IS/ND) (State Clearinghouse #2014122066) for the 2015-2023 Housing Element Update and adopt the updated Housing Element of the General Plan (dated March 2015) as a General Plan Amendment (GPA15-002), pursuant to Article 10.6 (Sections 65580-65589.8) of the**

California Government Code.

Commissioner Mishra/Petersen

Vote: 4-1

AYES: Chair Johnson, Commissioners Petersen, Biasotti, Mishra
NOES: Sammut
ABSTAIN: None

7. Discussion

A. City Staff Discussion:

Volunteers for the May 14th ARC meeting: Commissioners Sammut and Biasotti identified. Staff will need to contact Commissioner Chase.

B. Planning Commission Discussion:

Commissioner Petersen: Reiterating that it is un-businesslike to continue without a seventh Planning Commissioner. He would like staff to do whatever possible to expedite filling the vacant seat.

Commissioner Sammut: The sub-committee for the process for filling the vacant Commission seat is underway. Additionally, wanted to ask staff about the Pine Trees on Huntington that he mentioned previously. There are a number of trees along San Antonio that are dead and are in need of removal.

Commissioner Biasotti: Thanked Mark Sullivan for his hard work on the Emergency Shelter Ordinance.

8. Adjournment

Meeting was adjourned at 8:50 pm

David Woltering
Secretary to the Planning Commission
City of San Bruno

Mary Lou Johnson, Chair
Planning Commission
City of San Bruno

NEXT MEETING: May 19, 2015

David Butler, Jr.
305 San Bruno Avenue West
San Bruno, CA 94066-3526
Email: davebutler@sanbrunocable.com

April 21, 2015

City of San Bruno
Planning Commission
567 El Camino Real
San Bruno, CA 94066

RE: PUBLIC MEETING OF APRIL 21, 2015

SUBJECTS: 1.) QUALIFIED NON-OPPOSITION TO RESOLUTION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE TO ALLOW EMERGENCY SHELTERS AS A PERMITTED USE IN THE (M-1) INDUSTRIAL ZONING DISTRICT

2.) OPPOSITION TO COMMISSION'S CONSIDERATION OF RECOMMENDING THE PREVIOUSLY PROPOSED (C) GENERAL COMMERCIAL ZONING DISTRICT AS THE PREFERRED LOCATION WHERE EMERGENCY SHELTERS WOULD BE ALLOWED.

To Whom It May Concern:

I will not be able to attend tonight's meeting, but this matter is very important to me and my family of whom I am spokesman. My position is as follows:

1.) QUALIFIED NON-OPPOSITION TO RESOLUTION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE TO ALLOW EMERGENCY SHELTERS AS A PERMITTED USE IN THE (M-1) INDUSTRIAL ZONING DISTRICT

I reluctantly and only qualifiedly do not oppose the resolution recommending that the City Council adopt an ordinance to allow emergency shelters as a permitted use in the (M-1) industrial zoning district, ("M-1"), only because it is a better alternative than allowing emergency shelters as a permitted use in the commercial



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zoning district, ("C") in my view. District M-1 is further from more liquor stores and bars than District (C) and that is in the all but the liquor seller's best interest.

However, my non-opposition is qualified because I believe that it is not in the City's best interest at all to establish and/or allow so-called emergency homeless shelters. It stimulates a culture of dependency of transients on us, who, then, never leave. In a true disaster, as we've recently seen, neighbors take neighbors in and we get through it on a family, neighborhood or community level, not a state imposed one. In any case, the federal government's FEMA has precedence in an officially declared emergency. Also, how does an emergency homeless shelter like the one proposed for us stand a better chance of surviving an earthquake or other natural disaster than a single family house or other small residential structure? It doesn't.

Therefore, the so-called "emergency" homeless shelter is in my view just a pretense for what will eventually become another flop house in our city, when the homeless have an alcohol, drug or criminal "emergency," thereby, perpetuating the cycle of dependency at taxpayer expense.

With a mind towards improving the economic standing of San Bruno in the Bay Area, The City should explore all legal avenues to challenge the state law the City defines as SB2 which allegedly requires a zoning code amendment to allow so-called emergency homeless shelters. Has SB2 been challenged? If so what has been the outcome? Does the City of San Bruno plan to challenge it? If not, why not? Since the implementation actions must have been completed in 2014 to be compliant with the State housing law according to the City, then, isn't any action by the City now too late or ultra vires? What have other cities done in response to SB2? Has SB2 been codified? If so, what is the code section? Only when all these questions have been answered can I consider changing my qualified non-opposition to M-1 to non-opposition to M-1.

- 2.) OPPOSITION TO COMMISSION'S CONSIDERATION OF RECOMMENDING THE PREVIOUSLY PROPOSED (C) GENERAL COMMERCIAL ZONING DISTRICT AS THE PREFERRED LOCATION WHERE EMERGENCY SHELTERS WOULD BE ALLOWED.

April 21, 2015

I adamantly oppose the Commission recommending the previously proposed (C) general commercial zoning district as the preferred location where emergency shelters would be allowed for all the reasons I have previously stated.

By reference I hereby incorporate my letter and attachments thereto, dated May 6, 2014 which have been placed in the file on this matter and the attached copy of an email sent to the City Council on February 25th in advance of a special agenda meeting on February 26, 2015 as if fully set forth herein.

Let's all work together to make San Bruno a better place to live and work.

Thank you for your time, consideration and service.

Sincerely,

A handwritten signature in black ink, appearing to read "David Butler, Jr.", written over the printed name below it.

David Butler, Jr.

Attachment (1) pg.

On Feb 25, 2015, at 3:18 PM, David Butler <davebutler@sanbrunocable.com> wrote:

Mayor, Vice Mayor, Councilmembers, City Manager,

I write about agenda item No. 4 – Emergency Shelter – on tonight's (February 26, 2015) special agenda. I have reviewed the report that is to be submitted on this item. I will not be able to attend the meeting, but request that the following be considered.

I strenuously oppose locating the shelter in the TOD Land Use Area as this area is within 100 yards of at least one, and possibly three, liquor stores and several bars are close by. I have witnessed on many occasions over 17 years homeless in this area too drunk to care for themselves; some of whom had to be removed by ambulance, presumably at public expense. Placing an emergency shelter in the TOD Land Use Area would not be in the best interests of the homeless consumers, the residents of this neighborhood, or the City as a whole, as in my opinion, most if not all those needing emergency shelter here -- other than in the wake of a disaster -- are single adults addicted to something or other, mostly alcohol, and to place them in a shelter near a liquor store or bar would be unsound as the temptation of, and easy access to, liquor would always be present and such placement would do nothing to mitigate the need for emergency shelter by those addicted to alcohol, resulting in a vicious circle of dependency.

City staff's finding that placement of the shelter in the Industrial Zone is suitable is reasonable in my opinion, because it takes the close exposure to alcohol sales out of the question and, therefore, would have a better chance of avoiding a culture of perpetual dependency by the consumers of the emergency shelter services. .

If the council is open to suggestion of alternative locations, then, please advise at the meeting for later consideration.

Please share this email those in attendance at the meeting tonight. Thank you for your service and your time.

David Butler, Jr.
305 San Bruno Avenue West
San Bruno, CA 94066-3526
(650) 873-3750 (650) 873-3168f

Mark Sullivan

From: Ggfly66@aol.com
Sent: Sunday, April 19, 2015 4:50 PM
To: Mark Sullivan
Cc: gguerra@italfoodsinc.com; drdraphael@italfoodsinc.com; rarmanino@italfoodsinc.com; rpaniagua@italfoodsinc.com; dginn@italfoodsinc.com; ggfly66@aol.com
Subject: Re: May 21, 2015, Planning Commission Meeting

Mr. Sullivan,

I do realize now that the portion of my below email addressing the planned development for South San Francisco was misplaced in being directed to you, but should be directed to the Planning Department of South San Francisco. I will do so. However, I will also include in my email to them the one I also sent to you below, because of how I believe it will mutually affect your two cities.

In essence, what I've described as my fears of their planned development I believe will affect both of your cities, e.g., resulting in an increase in traffic congestion at your northern border also; and a change in demographics adversely affecting both South San Francisco and San Bruno with regard to housing.

georgette guerra

In a message dated 4/18/2015 10:16:24 P.M. Pacific Daylight Time, Ggfly66@aol.com writes:

*To: Mark Sullivan, Long-Range Planning Manager
City of San Bruno, CA*

Dear Sir:

I am in receipt of your notice to Property Owners advising of the Commission's public hearing for Tuesday, the 21st.

I've read your letter and have pulled up the below excerpts from your Housing Element Plan 2009-2014 to which you refer, and have a number of questions and comments. I ask for your indulgence and time in reading them.

1) Since it appears that the closest homeless shelter to San Bruno is 3.3 miles away in Burlingame, with others being even farther, I can obviously see the need for developing one within San Bruno, as projected by the City in your Housing Element. The plan was adopted in 2010 and I'm wondering why it would have taken so long to look into this, especially when the homeless census described in your Plan was taken back in 2009.

2) Program 6-D below states, "This zoning amendment will not commit the city to build the shelter, but rather will make the process easier..." What does this mean? Would a building be constructed, or would a vacant building be renovated?

3) I note in the fourth line of your second paragraph, you state, "Alternatively, the Planning Commission will consider recommending the previously proposed (C) General Commercial Zoning District as the preferred location where emergency shelters would be allowed." Why then is Zone M-1 now being considered as the "preferred location"?

4) Our company, Italfoods, is located at the northeast corner of M-1 at the intersection of Shaw Road and San Mateo Avenue. Should any further type of construction have to occur in this area the traffic flow will be certainly impacted. As it is now, San Mateo Avenue from Airport Boulevard through to San Bruno Avenue is very heavily congested with automobiles, trucks, cement plant mixers, and even passersby. The Negative Declaration as it concerns any environmental impacts may have been approved by Council back in March 2010, but has anyone noticed the mass slowdown of traffic and congestion on this industrial row of San Mateo Ave. since then?

5) In addition, I would seriously question the well-being and safety of any homeless person walking this area in order to enter and exit any shelter which may be erected in M-1. M-1 is also adjacent to the railway

tracks. Consider what tragic accident could occur to one of these individuals, who could conceivably cross over the tracks to reach Tanforan Center.

6) On the other hand, Zone C is in a safer environment, still close to public transportation for the homeless, and also closer to stores and eateries.

Now the following may seem disconnected to what I've addressed above, but please note that it will result in some related views.

I believe this to also be an opportunity to address my concerns over a recent article by Austin Walsh in the Daily Journal on April 1, 2015 --NEW SOUTH CITY HOUSING SLATED - Builder offers 262 units in step with vision of new downtown plan. They are referred to as "luxury units spread across 2.2 acres...the buildings are expected to be built four and five stories high, with residential units..." with all the amenities".

However, this is only the tip of the iceberg. The article proceeds to state that "...the city is hoping to add roughly 1,400 new housing units.....to add more high-density housing opportunities over the 20 year life span of the project". Both developers and city officials alike refer to "...world class design" ; turn So. City into a vibrant environment; and "...getting downtown turned around...a positive change..." Then toward the end of the article, Alex Greenwood, your Economic Development Director, describes the present South City as, "South San Francisco has a great main street, a great look and feel to it...and the city wants to continue that..." **!!**

The locations which are laid out for these projects are in the most congested parts of the thoroughfares of South City itself, not to mention the havoc it will bestow on the entrances and exits to 101 and beyond. EIR's can't even begin to project the traffic impacts and mitigation what would be required off into the future. Their predictions almost always fail in doing so after the projects are completed. Unfortunately, we learned this lesson quite well in San Mateo where I reside. We, as residents, also learned that Transit-Oriented Development very minimally works--not enough to make an impact. We simply do not have an efficient, convenient, and well-connecting auxiliary transit system throughout the Peninsula. Not enough to get Californians out of their cars. And, by the way, no amount of planned parking garages for these developments are ever enough. Again, history from the past.

If South City continues on with the plans as described in the Journal, we'll all pay the price--those who use these roads and streets to enter into the downtown, and to our jobs. The small businesses will suffer, and one more devastating adverse effect, and probably the most serious one, will be this:

You will be turning the South San Francisco citizenry into two groups: the wealthy and the very poor. Who will be able to afford those residential units you plan to develop? Only those who come in from other counties with high paying jobs. This is also occurring in San Francisco.

In San Mateo in the early '90's its citizens fought with Planning and Council to require that the developers set aside a portion of their developments as low-income housing. The most we could get from the City was 10% (Measure H). Then after the developments were completed, what went for low-income housing units was an abomination. Low income individuals could never afford them. The regular units--condos, apartments--had their prices so jacked up. In addition, it doesn't appear that South San Francisco even has this condition written into its ordinance regarding housing development. The Journal article reads, "Officials and residents have expressed mutual interest in ensuring that a portion of the residential developments in the city will be reserved for affordable rates." The article states, "Greenwood said a portion of the Sares Regent project will be affordable units, but he was unsure of how much as the amount is still under negotiations." Negotiate with a developer--who has only one thing in mind? Apparently, this is not a condition with a specific value written into your ordinance.

I noted the censuses of poor and low-income individuals in your Housing Element Plan. They are considerable. How is all this going to help them? You're going to need more than a couple of homeless shelters when all this is done.

I would appreciate if you could please give a copy of my email to your Planning Commissioners before the 5/21 hearing so they can have it in their packets, and also pass on a copy of it to the council members and planners regarding your "downtown plan".

thank you,

georgette guerra
President and property owner of
Italfoods, Inc.
205 Shaw Road
South San Francisco, CA 94080

San Bruno Housing Element 2009 - 2014 (Adopted March 23, 2010)

Homelessness

Section 2 - 26

"**Program 6-D** is ensures that the City will amend the Zoning Ordinance to identify an appropriate zone or zones within which emergency shelters are permitted, and that this amendment will occur within one year after adoption of this Housing Element. The amendment will make emergency shelters an explicit by right use in the Transit Oriented Development area within the transit corridors and easy walking distance to BART, Caltrain, and other services. This zoning amendment will not commit the city to building a shelter, but rather will make the process easier if it is determined that one is necessary and an appropriate housing provider is interested in taking on the project."

Section 2-29

"Table 2.7-9: Unmet Year Round Need for Emergency Shelter in San Bruno (2009)

Daily average number of unsheltered homeless people 34

Minus number of available shelter, transitional housing and supportive housing beds 0

Minus number of supportive housing units under development or for which funding has been identified 2

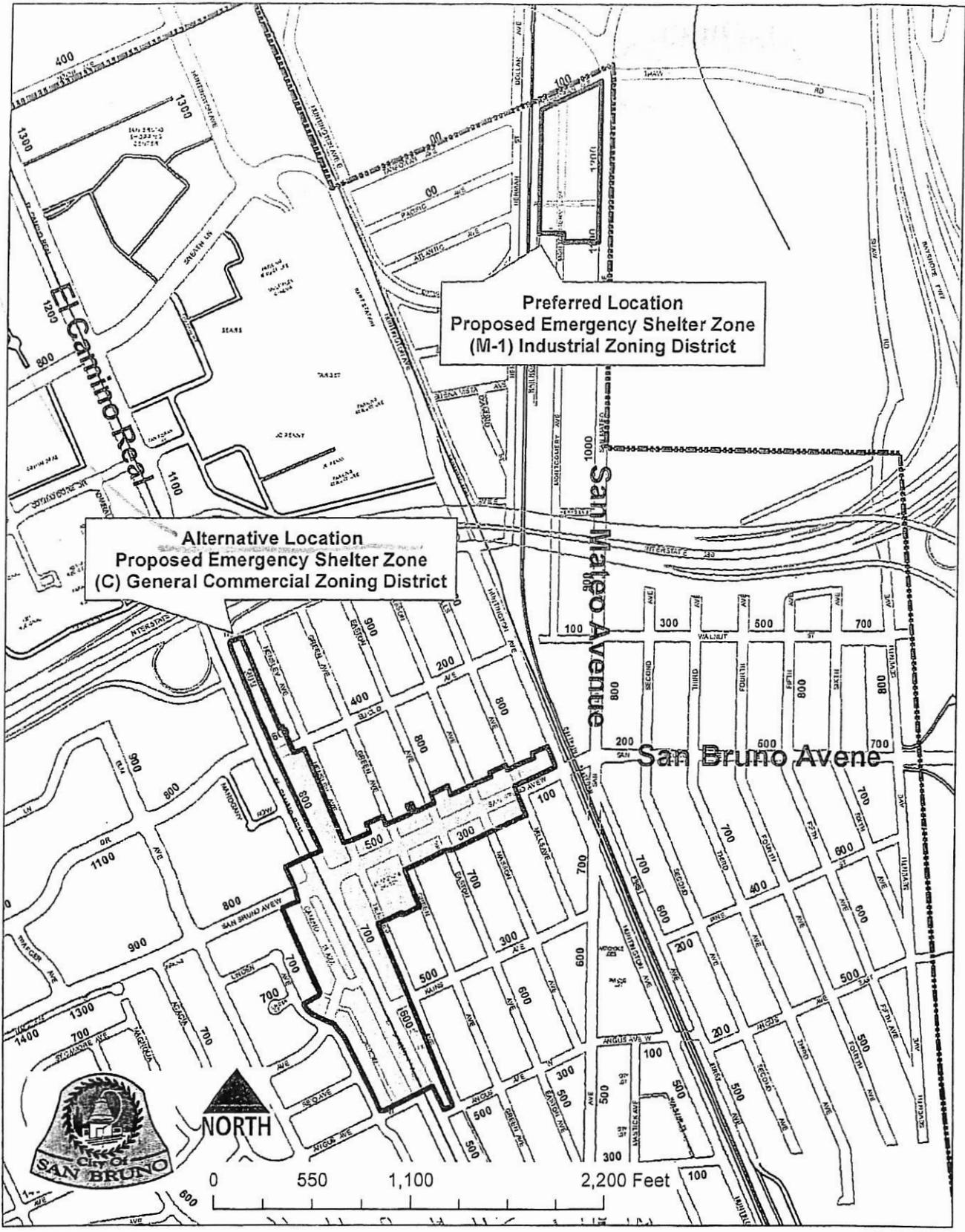
Equals unmet need for emergency shelter beds 32

Source: 2009 San Mateo County Homeless Census and Survey; City of San Bruno, 2009."

From: Upstairs_Kyocera@italfoodsinc.com
To: ggfly66@aol.com
Sent: 4/18/2015 6:52:22 P.M. Pacific Daylight Time
Subj: (no subject)

CS 3050ci
[00:c0:ee:88:6a:61]

Proposed Emergency Shelter Zone
Implementation Action for Housing Element Program 6-D, Pursuant to State Law
City of San Bruno



Mark Sullivan

From: Donald Phelps <donaldphelps@sanbrunocable.com>
Sent: Wednesday, April 15, 2015 3:02 PM
To: rkmtt@yahoo.com; Mark Sullivan
Cc: 'Chris Price'; 'Allens80'
Subject: RE: homeless shelters (Commission meeting)

At the last meeting regarding the shelter I clearly heard the location will be in the north end of town in the industrial area. What new events have occurred to once again place this unwanted eyesore at the end of our business district near new the new train station that is to be a welcoming portal to San Bruno. The only purpose I see is to under mind and destroy our down town.

Without knowing your new reasoning I can only conclude that you've failed to represent and protect the interest of the citizenry. The location is indicative of the insensitivity to the plight of the down town with the homeless.

I am wholly against any location other than the industrial area that has access to BART and busses.

Don Phelps
120 Lucia Ct

From: rkmtt@yahoo.com [mailto:rkmtt@yahoo.com]
Sent: Wednesday, April 15, 2015 1:15 PM
To: msullivan@sanbruno.ca.gov
Cc: Chris Price; Allens80
Subject: Fw: homeless shelters (Commission meeting)

I just received the letter on the consideration for homeless shelters. I will not be able to attend the meeting, but would like to express an objection to the preferred proposed (C) location, my views , as expressed in a previous meeting were factual, homeless shelters are needed to house homeless, but in a business district and residential area, they would create a problem, not the homeless shelter, but the surrounding areas, people camping out side of the homeless shelter, and or living in their cars.

Business would suffer, residents, homeowners would see their value suffer, environmentally it would be a disaster, children would be afraid to walk by camp outs...

my best
Rich Dondo 831 Mills Ave. San Bruno 94066

Mark Sullivan

From: rkmtt@yahoo.com
Sent: Wednesday, April 15, 2015 1:15 PM
To: Mark Sullivan
Cc: Chris Price; Allens80
Subject: Fw: homeless shelters (Commission meeting)

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Business would suffer, residents, homeowners would see their value

suffer, environmentally it would be a disaster, children would be afraid to walk by camp outs...

my best

Rich Dondo 831 Mills Ave. San Bruno 94066

Mark Sullivan

From: Southwest Construction - CA <swc-ca@southwestcpm.com>
Sent: Monday, April 13, 2015 2:19 PM
To: Mark Sullivan
Subject: Planning Commission Meeting - 5/21/015 - Proposed Emergency Shelter Overlay Zone

Dear Mr. Sullivan,

We are in receipt of the notification dated 4/10/2015 regarding the proposed emergency shelter zone which affects our property.

The notification is not clear as to what the City feels constitutes an "emergency". Is it to provide shelter during natural disasters, to house the homeless, or... It is also unclear if the existing buildings would be used or if temporary structures/tents would be constructed.

As it effects our property, we are naturally very interested in this proposal so any additional information/ clarifications you can provide prior to the April 21st meeting would be appreciated so that we can properly prepare a comment.

Thank you for your assistance.

Nellie A. Gonzales

--

SOUTHWEST CONSTRUCTION
Projects Administration



City Council Agenda Item Staff Report

CITY OF SAN BRUNO

DATE: May 26, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Marc L. Zafferano, City Attorney

SUBJECT: Adopt Resolution Submitting a Measure to the Voters of San Bruno at the November 3, 2015 General Municipal Election to Determine Whether the Positions of City Clerk and City Treasurer Should be Changed from Elected to Appointive; Directing the City Attorney to Prepare an Impartial Analysis of Said Measure; and Authorizing Submission of Ballot Arguments Supporting the Measure on Behalf of the City Council

BACKGROUND:

The City of San Bruno is a general law city, and therefore derives its municipal powers from laws enacted by the state legislature. California Government Code section 36501, originally adopted in 1949, requires that the government of each general law city include the offices of City Clerk and City Treasurer, along with the City Council, Chief of Police and Fire Chief. Currently, the positions of City Clerk and City Treasurer are elected positions. The only qualification in state law for the City Clerk and the City Treasurer is that they must be at least 18 years old and registered voters of the city. The City is prohibited from establishing any other requirements.

Since the City's incorporation in 1914, the positions of the City Clerk and the City Treasurer have become vastly more complex. The City Clerk must be thoroughly knowledgeable in the application of dozens of state laws and procedures, including the Brown Act, the Political Reform Act, the Public Records Act, campaign finance laws and regulations, and the Elections Code. The City Clerk is also responsible for creating minutes of City Council meetings, maintaining official City documents and records, distributing City Council agenda packets, and administering campaign finance laws and municipal elections. The City Treasurer is required to prudently invest and manage City funds in excess of approximately \$60 million (not including the approximately \$70 million currently being held in a custodial account for the San Bruno Community Foundation), to adhere to all laws and regulations governing municipal finance, and to create detailed and accurate reports for review and approval by the City Council.

In short, both positions perform critical City functions, and they require specialized education and experience to properly discharge their many duties. Unlike the elected members of the City Council, neither position has any independent policy-making authority.

The trend throughout the state has been to convert these positions from elective to appointive: approximately three-quarters have an appointed City Clerk and approximately two-thirds have an appointed City Treasurer. In San Mateo County, only three of the nineteen general law cities in addition to San Bruno (Belmont, Daly City, and South San Francisco) elect both their City Clerks and City Treasurers. San Carlos appoints their City Clerk but elects their City Treasurer.

10a.

The City has been served by the current City Clerk since November 2005 and the current City Treasurer since 2006.

Government Code Section 36508 provides that the City Council may place a question on the ballot whether the City Clerk and City Treasurer should be appointive offices. By statute, the specific question on the ballot would read:

“Shall the positions of City Clerk and City Treasurer of the City of San Bruno be appointive?”

If the voters approve the measure, the City Council would be empowered to appoint the City Clerk and City Treasurer upon expiration of their current terms. Under Government Code Section 36510, the City Council may later adopt an ordinance vesting in the City Manager the authority to appoint the City Clerk and City Treasurer.

Of the fourteen San Mateo County general law cities that have opted to appoint the City Treasurer, ten have adopted ordinances transferring those functions to the Finance Director. San Bruno Municipal Code section 2.28.050 already transfers the financial and accounting duties of the City Clerk specified in state law to the Finance Director. Consolidating the City Treasurer’s functions in the position of Finance Director would enhance the City’s operational efficiency.

To be effective on the expiration of the current terms of the City Clerk and City Treasurer in November 2017, an initiative ordinance should be approved in time so that its effective date (ten days after the City Council declares the results of the election) would occur before the end of their current term. As a result, if the City Council wishes to present this question to the voters, it should do so at the November 2015 election.

DISCUSSION:

Making the City Clerk and City Treasurer positions appointive will help ensure that the City is able to appoint individuals to these positions who possess the necessary education, training, and experience to perform their respective duties effectively and consistently with the direction of the City Council as delegated to the City Manager. It would eliminate the possibility that individuals whose only qualification is that they are adult residents of the City could be elected to assume responsibilities for which they are unqualified, with the potential of creating significant risk to the City’s efficient operations.

To be placed on the ballot for the November 3, 2015 general election, the City must adopt and transmit the attached resolution to the County elections official before August 7, 2015. In addition to placing the question on the ballot, the resolution authorizes members of the City Council to prepare an argument in favor of the measure, and the City Attorney to prepare an impartial analysis.

California Elections Code section 9222 provides that the City Council can submit an initiative measure to the voters without petition. The milestones to qualify for the November 3, 2015 Election are as follows:

Final day to deliver resolution to the San Mateo County Elections Officer requesting to place ballot measure for the November 3, 2014 Election.	August 7
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10-day public review period for all documents filed on August 7.	August 7-17
Last day to amend or withdraw ballot measure.	August 12
Primary arguments in favor and against ballot measure are due.	August 14
10-day public review for primary arguments filed in favor of or against the measure.	August 14-24
Rebuttal arguments for the measure are due.	August 24
Impartial analysis by the City Attorney is due.	August 24
10-day review for impartial analysis and rebuttal analysis	August 25 - September 3
Election Day	November 3

FISCAL IMPACT:

The estimated cost of placing this measure on the November 2015 ballot is \$10,000. The City Council would continue to set the salaries of both positions.

ALTERNATIVES:

1. Do not approve resolution submitting a measure on the ballot with the question, "Shall the positions of city clerk and city treasurer of the City of San Bruno be appointive?"
2. Provide staff with alternative direction.

RECOMMENDATION:

Adopt a Resolution Submitting a Measure to the Voters of San Bruno at the November 3, 2015 General Municipal Election to Determine Whether the Positions of City Clerk and City Treasurer Should be Changed from Elected to Appointive; Directing the City Attorney to Prepare an Impartial Analysis of Said Measure; and Authorizing Submission of Ballot Arguments Supporting the Measure on Behalf of the City Council.

DISTRIBUTION:

1. City Clerk
2. City Treasurer

ATTACHMENTS:

1. Resolution, with attached Ordinance

DATE PREPARED:

May 21, 2015

REVIEWED BY:

_____ CM

RESOLUTION NO. 2015- _____

SUBMITTING A MEASURE TO THE VOTERS OF SAN BRUNO AT THE NOVEMBER 3, 2015, GENERAL MUNICIPAL ELECTION TO DETERMINE WHETHER THE POSITIONS OF CITY CLERK AND CITY TREASURER SHOULD BE CHANGED FROM ELECTED TO APPOINTIVE; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF SAID MEASURE; AND AUTHORIZING SUBMISSION OF BALLOT ARGUMENTS SUPPORTING THE MEASURE ON BEHALF OF THE CITY COUNCIL

WHEREAS, the positions of City Clerk and City Treasurer require specialized education, training and experience; and

WHEREAS, the only qualifications for the elective offices of City Clerk and City Treasurer is that they be residents of the City of San Bruno and 18 years of age or older;

WHEREAS, the City Council has determined to submit to the voters at the general municipal election on November 3, 2015, a ballot measure making the positions of the San Bruno City Clerk and City Treasurer appointive rather than elected, effective December 8, 2015, or upon a vacancy during their respective terms of office, which end on or about December 12, 2017; and

NOW, THEREFORE, BE IT HEREBY RESOLVED that the City Council of the City of San Bruno resolves as follows:

Section 1. That the City Council orders submitted to the voters at the General Municipal Election to be held and consolidated with the Municipal General Election on Tuesday, November 3, 2015, the following question:

Shall the positions of City Clerk and City Treasurer of the City of San Bruno be appointive?	YES
	NO

Section 2. If the measure is enacted, the San Bruno City Council will have the authority to appoint the City Clerk and City Treasurer.

Section 3. A majority vote of the voters is required to approve the measure.

Section 4. The full text of the ballot measure to be voted upon is set forth in Exhibit A, attached hereto, and shall appear in the voter information pamphlet.

Section 5. This measure is submitted to the voters pursuant to Government Code section 36508 and Elections Code Section 9222.

Section 6. The ballots used at the election shall be in the form and content as is required by law.

Section 7. The City Attorney is hereby directed to prepare and submit an impartial analysis of the measure.

- Section 8. Arguments in favor or against the above ballot measure shall be filed with the City Clerk of the City of San Bruno during regular business hours by August 14, 2015, after which no arguments for or against the City measure may be submitted to the City Clerk.
- Section 9. The Mayor or his designee(s) are hereby authorized to prepare a written argument in favor of the ballot measure, not to exceed 300 words, on behalf of the City Council at the Mayor's discretion, the argument may also be signed by bona fide associations or by individual voters who are eligible to vote.
- Section 10. Rebuttal arguments shall be filed with the City Clerk during regular business hours by August 24, 2015, and shall not exceed 250 words in length.
- Section 11. The Mayor or his designee(s) are hereby authorized to prepare rebuttal responses to any arguments filed against the ballot measure.
- Section 12. During the period commencing August 14, 2015, and ending August 24, 2015, the City Clerk shall make available for public inspection the arguments filed for and against the ballot measure.
- Section 13. The County Election Department is hereby authorized to canvass the returns of the election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.
- Section 14. The Board of Supervisors of the County of San Mateo is hereby requested to issue instructions to the County Election Department to take any and all steps necessary for the holding the election.
- Section 15. The City Clerk is hereby directed to deliver forthwith certified copies of this Resolution to the Clerk of the Board of Supervisors of San Mateo County and the Registrar of Voters of San Mateo County promptly upon its adoption.

ATTEST:

Carol Bonner, City Clerk

-o0o-

I, Carol Bonner, City Clerk, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of San Bruno this ___th day of May, 2015, by the following vote:

AYES: Councilmembers: _____

NOES: Councilmembers _____

ABSENT: Councilmembers: _____

EXHIBIT A

ORDINANCE NO. _____

**AN INITIATIVE ORDINANCE OF THE CITY OF SAN BRUNO CHANGING THE
POSITIONS OF CITY CLERK AND CITY TREASURER FROM ELECTIVE TO
APPOINTIVE**

The people of the City of San Bruno do ordain as follows:

SECTION 1: The positions of City Clerk and City Treasurer shall be changed from elective to appointive pursuant to California Government Code section 36508.

SECTION 2: If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The people of the City of San Bruno hereby declare that they would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 3: This ordinance shall take effect as provided in §9217 of the Elections Code of the State of California.

SECTION 4: The City Clerk shall publish this ordinance according to law.



City Council Agenda Item Staff Report

CITY OF SAN BRUNO

DATE: May 26, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Marc L. Zafferano, City Attorney
Ed Barberini, Police Chief

SUBJECT: Receive Staff Report and Consider Ordinance Repealing Chapter 4.40 (Massage Establishments) and Enacting New Chapter 4.40 (Massage Businesses)

BACKGROUND:

In 2008, the State Legislature adopted Section 4600 of the California Business and Professions Code, which created a nonprofit public benefit corporation, the California Massage Therapy Council (CAMTC), to regulate and standardize the issuance of massage therapist and practitioner certificates throughout the state. The policy behind the state law was to enable consumers to identify legitimate and professional massage workers/businesses, and also to relieve massage professionals from the burden of paying for increasingly costly and duplicative city-issued licenses throughout the state.

In 2009, the City of San Bruno amended its massage establishment ordinance to conform to state law, implementing a two-tier regulatory system for massage practitioners, depending on whether the massage practitioners were, or were not, CAMTC-certified.

In 2011, the State Legislature amended the CAMTC statute, further constraining local regulation, and preempting some provisions of those ordinances. Those changes were detailed in the staff report for the April 23, 2013 City Council meeting; the City Council ultimately adopted a new massage ordinance on May 28, 2013 (Attachment 1) that contained these key elements:

- Required all massage practitioners to become state-certified and all massage establishments to employ only state-certified massage practitioners;
- Required a background check for business owners that own 5% or more of a massage business and are not state-certified;
- Established an effective date of September 1, 2013, to provide time for businesses and workers to comply with the new regulations;
- Required massage businesses and practitioners to register with the city to verify possession of valid and current state-certifications and require zoning clearance letter and business license;
- Set renewal at every fiscal year;
- Exempted certain classes of persons and businesses as required by state law such as physicians, nurses, physical therapists, chiropractors, barbers, hospitals, and health clubs from requirement to obtain massage business Certificate of Registration;

10.6.

- Established health and safety requirements such as clean linens, sanitized equipment, and no closed shades or curtains on front windows and doors during business hours, which are established from 7:00 a.m. to 9:00 p.m.;
- Provided a right to enter during business hours to conduct reasonable inspections to enforce compliance with building, health, and other related codes; and
- Sunset on January 1, 2015, the current sunset date applicable to the state law.

On January 1, 2015, the Legislature significantly revised numerous provisions of the state massage ordinance (see Attachment 2), briefly summarized as follows:

- Restored zoning authority so that cities can now impose different land use regulations on massage establishments than on other personal service businesses;
- Imposed new and more extensive educational requirements on massage certificate holders;
- Prohibited suggestive advertising for massage services;
- Expanded the bases for CAMTC denial or revocation of massage certificates;
- Adopted more stringent requirements for massage schools; and
- Changed the structure of the CAMTC governing Board to include representatives from the League of California Cities, the Police Chief's Association, and the Association of Counties.

Over the past several months, staff has been working with representative from the League of Cities, city attorneys and city managers from other cities in San Mateo County, the Police Chief, and the San Mateo County Counsel's office to develop a standard template ordinance that would conform to the new state law. The Board of Supervisors has urged all San Mateo County cities to adopt a uniform ordinance, primarily because of evidence demonstrating that massage establishments that engage in illicit activities in one city can easily move to another city in the county that may have more lenient regulations. A standard county-wide ordinance would simplify enforcement and allow cities and the county to fully cooperate in police operations to uncover and prosecute massage establishments that are violating the law. Several other cities in San Mateo County have scheduled the uniform ordinance for introduction and adoption. The County has reported that the CAMTC supports the uniform ordinance.

Over the past several years, the number of massage establishments in San Bruno has remained relatively stable at thirteen. The proposed ordinance would not have a significant impact on existing businesses that engage in legitimate massage practices.

DISCUSSION:

The draft ordinance attached as Attachment 3 reflects the proposed uniform San Mateo County ordinance and fully conforms to the new state law. The proposed ordinance carries forward unchanged many of the provisions of the current City ordinance in terms of regulation of conduct and operations, hours of operation (7:00 a.m.-9:00 p.m.), inspections, and issuance of City Certificates of Registration to massage businesses. The most significant change is the addition of a new enforcement mechanism that San Mateo County has used with some success: the creation of a License Board consisting of the Chief of Police, the Community Development Director, and the Finance Director that would hear any appeals from administrative orders to pay fines, or to suspend or revoke the City-issued Certificates of

Registration. After a hearing, the License Board could order closure for a massage business found to be in violation of the City's ordinance or state law; that decision would be reviewable only by filing a court action.

The County Counsel's office has reported that this mechanism, combined with police operations designed to uncover businesses that engage in illicit conduct, has been effective in permanently closing such businesses. The County stands ready to assist cities in these operations so that businesses that violate the law do not simply move from city to city. If adopted, the new ordinance would facilitate cooperation among all cities and the county to engage in joint enforcement efforts across jurisdictional lines. The Police Chief has indicated that the department is willing and able to partner with other agencies to accomplish this.

FISCAL IMPACT:

There are no direct costs associated with the Municipal Code amendments. There will be expenditures of staff time by the Police Department to enforce the ordinance. Staff time will also be required to conduct the administrative hearings, and additional expenditures may be necessary from the City Attorney's outside counsel budget for civil enforcement of the administrative orders.

ALTERNATIVES:

1. Provide direction for the proposed ordinance prior to presentation for first reading and public hearing.

RECOMMENDATION:

Receive Staff Report and Consider Ordinance Repealing Chapter 4.40 (Massage Establishments) and Enacting New Chapter 4.40 (Massage Businesses)

DISTRIBUTION:

This staff report and all attachments were mailed to all massage establishment owners and all property owners who lease to massage establishments.

ATTACHMENTS:

1. Current City Massage Ordinance, Chapter 4.40
2. Summary of New State Law
3. Proposed new Ordinance Repealing Chapter 4.40 (Massage Establishments) and Enacting New Chapter 4.40 (Massage Businesses)

DATE PREPARED:

May 21, 2015

REVIEWED BY:

_____ CM

ORDINANCE NO. 1812

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN BRUNO REPEALING EXISTING CHAPTER 4.40 AND ENACTING NEW CHAPTER 4.40 (MESSAGE ESTABLISHMENTS) TO TITLE 4, LICENSES AND REGULATIONS, OF THE SAN BRUNO MUNICIPAL CODE RELATING TO REGULATING MASSAGE SERVICES

Section 1. Findings. The City Council of the City of San Bruno hereby finds and declares as follows:

WHEREAS, the City of San Bruno currently regulates massage services pursuant to Chapter 4.40 of the San Bruno Municipal Code through a City permit process; and

WHEREAS, Division 2, Chapter 10.5 of the California Business & Professions Code ("B&P Code"), as amended, requires that cities allow massage services to be provided without the need for City massage permits as long as the massage therapists and practitioners have acquired a state certification, or that the massage business employs only state certified personnel to perform massage; and

WHEREAS, established pursuant to the B&P Code, the California Massage Therapy Council (CAMTC) has the goal of elevating the standing of massage practitioners and therapists in the community by enacting high standards for state certification thus distinguishing them from those businesses that serve as a front for prostitution and other illegal activities; and

WHEREAS, the City seeks to conform its massage regulations to the requirements of B&P Code Chapter 10.5, as amended, and rather than establish a dual process for massage services permitted by the City and massage services permitted through state certification, the City will require all such persons and businesses providing massage services in San Bruno to obtain state certification; and

WHEREAS, establishing one regulatory scheme for massage services will create a consistent and clear process for applicants and will enable consumers to identify legitimate massage workers, thus protecting the health, safety, and welfare of the City.

THE CITY COUNCIL OF THE CITY OF SAN BRUNO DOES ORDAIN AS FOLLOWS:

Section 2. Chapter 4.40 (Massage Establishments) of the San Bruno Municipal Code is hereby repealed.

Section 3. New Chapter 4.40, "Massage Establishments" is hereby added to read as follows:

CHAPTER 4.40

MESSAGE ESTABLISHMENTS

Article 1. General

- 4.40.010 Purpose and intent.
- 4.40.020 Definitions.
- 4.40.030 Authority.
- 4.40.040 State certification and city registration required.

Article 2. Massage Businesses

- 4.40.050 Certified massage business – Certificate of registration required.
- 4.40.060 Certified massage business – Registration issuance.
- 4.40.070 Registration fee.
- 4.40.080 Business license.
- 4.40.090 Exemptions from requirement for certificate of registration – business.
- 4.40.100 Health and safety requirements.
- 4.40.110 Inspection by city officials and notices of violation.
- 4.40.120 Display of signs and permits.
- 4.40.130 Transfer of massage business certificate of registration.
- 4.40.140 Notification of changes.

Article 3. Massage Practitioners

4.40.150 Massage practitioners – Certificates of registration required; non-transferable.

Article 4. Certificates Of Registration – Expiration, Denial, Revocation, Suspension, and Appeals

- 4.40.160 Certificates of registration – Expiration and renewal.
4.40.170 Revocation or suspension of certificate of registration - Massage business.
4.40.180 Revocation or suspension of certificate of registration – Individuals.
4.40.190 Suspension or revocation hearing.
4.40.200 Appeal from denial, revocation, suspension.
4.40.210 Reapplication after denial.
4.40.220 Re-opening of establishment at same location once closed.

Article 5. Miscellaneous

- 4.40.230 Public nuisance.
4.40.240 Violations, penalties.

Article 1. General

4.40.010 Purpose and intent.

It is the purpose and intent of the City Council that this chapter rely upon California Business & Professions Code Chapter 10.5 of Division 2, as it may be amended, to provide for the orderly and consistent regulation of massage services, to enable consumers to identify legitimate massage workers and businesses, and additionally to establish minimum health and safety standards, thus protecting the public interest, health, safety and welfare of the city.

4.40.020 Definitions.

For the purpose of this chapter, the following words and phrases shall mean or include:

A. "Applicant" shall mean an applicant for a Certificate of Registration – Individual or Business, and each of the following persons: the responsible managing officer/employee, a general partner, a limited partner, a shareholder, a sole proprietor, or any person who has a five (5) percent or greater ownership interest in a massage business whether as an individual, corporate entity, limited partner, shareholder or sole proprietor.

B. "Approved School of Massage" means any school or institution of learning that is recognized as an "approved school" pursuant to Business and Professions Code Division 2, Chapter 10.5, as it may be amended.

C. "California Massage Therapy Council" means the massage therapy organization formed pursuant to California Business and Professions Code Section 4600, and following, as amended, and referred to as CAMTC herein.

D. "Certificate of Registration – Individual" means a certificate issued by the police department upon submission of satisfactory evidence that a massage practitioner or therapist has a current and valid State Certification and has satisfied all other requirements pursuant to the provisions of this chapter.

E. "Certificate of Registration – Business" means a certificate issued by the police department upon submission of satisfactory evidence that a massage business or sole proprietorship employs or uses only certified massage therapists or practitioners possessing current and valid State Certifications and has satisfied all other requirements pursuant to the provisions of this Chapter.

F. "Certified Massage Business" means any business where the only persons employed or used by that business to provide massage services have current and valid State Certifications.

G. "Certified Massage Practitioner" means any person holding a current and valid State Certificate issued by the CAMTC pursuant to California Business and Professions Code Sections 4600, and following, as amended, whether as a massage practitioner or massage therapist, as defined therein.

H. "Certified Sole Proprietorship" means any massage business where the owner is the only person employed or used by that business to provide massage services and the owner has a current and valid State Certification.

I. "Massage" means any method of treating the external parts of the body for remedial, health, or hygienic purposes for any form of consideration (whether for the massage, as part of a membership, as part of other services or a product, or otherwise) by means of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, or stimulating the external parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances; or with or without supplementary aids, such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations commonly used in this practice; or by baths, including but not limited to Turkish, Russian, Swedish, Japanese, vapor, shower, electric tub, sponge, mineral, fomentation, or any other type of bath.

J. "Owner" or "Operator" means any and all owners of a massage business including any of the following persons: the managing responsible officer/employee, a general partner, a limited partner, a shareholder, a sole proprietor, or any person who has a five (5) percent or greater ownership interest in a massage business whether as an individual, corporate entity, limited partner, shareholder or sole proprietor.

K. "Registered Certificate Holder" means a person or business that has been issued a Certificate of Registration by the city's police department.

L. "State Certification" or "State Certificate" means a valid and current certification properly issued by CAMTC pursuant to California Business & Professions Code Section 4600, and following, as amended.

4.40.030 Authority.

The police chief or designated representative shall have the power and authority to promulgate rules, regulations, and requirements consistent with provisions of this chapter and other law in connection with the issuance of a Certificate of Registration. The police chief may designate an employee of his or her department to make decisions and investigations and take actions under this chapter.

4.40.040 State certification and city registration required.

A. On or after September 1, 2013, it shall be unlawful for any individual to practice massage for compensation within the city unless that individual is a Certified Massage Practitioner and further, it shall be unlawful for any business to provide massage services within the City unless all individuals employed by the massage business to perform massage, whether as an employee or independent contractor, are Certified Massage Practitioners.

B. On or after September 1, 2013, unless issued a current and valid Certificate of Registration issued pursuant to this chapter, it shall be unlawful for any person, association, partnership or corporation to engage in, conduct or carry on, or permit to be engaged in, conducted or carried on in or upon any premises within the city, the operation of a Certified Massage Business or the function of a Massage Practitioner.

Article 2. Massage Businesses

4.40.050 Certified massage business – Certificate of registration required.

A. A registration application shall be filed on forms provided by the police department, signed and submitted under penalty of perjury and shall contain all of the following information:

1. State Certification Verification:

a. If a Certified Sole Proprietorship, the applicant/owner shall produce a valid and current State Certification and a valid and current CAMTC issued identification card.

b. If a Certified Massage Business other than a Certified Sole Proprietorship, the applicant/owners shall produce:

(1) A valid and current State Certification; and

(2) A valid and current CAMTC issued identification card; and

(3) A statement that the Certified Massage Business shall employ only Certified

Massage Practitioners along with copies of valid and current State Certificates for all Massage Practitioners employed or who will be employed by the Massage Business and copies of their current and valid CAMTC issued identification cards.

c. The police department may require the owner/applicant of a Certified Sole Proprietorship or a Certified Massage Business to produce a valid and current driver's license and/or identification card issued by a state or federal governmental agency or other photographic identification bearing a bona fide seal by a foreign government; and further may require the Massage Practitioners whom the owner/applicant has identified as employees to personally appear and produce valid and current State Certificates, a valid and current driver's license and/or identification card issued by a state or federal governmental agency or other photographic identification bearing a bona fide seal by a foreign government. With respect to all massage schools attended by the owner/applicant and all certified massage practitioners, the police department may also require certified copies of transcripts, a true and correct copy of the diploma(s) issued, and current contact information (phone, mailing address, and email address of Registrar or equivalent person) of all school(s) that the Certified Massage Practitioners attended.

d. The following information shall be provided by any owner/applicant who is not state certified and owns five (5) percent or more of the business:

(1) Acceptable proof that the employee is at least eighteen years of age.
(2) Full, true name, and other names used, date of birth and valid and current driver's license and/or identification card issued by a state or federal governmental agency or other photographic identification bearing a bona fide seal by a foreign government.

(3) Two (2) photographs to be taken by the police department.
(4) Current address and previous two residences including dates at each address.

(5) Business, occupation, and employment history for five (5) years preceding the date of current or proposed employment, the inclusive dates of same; the name and address of any massage business or other like establishment owned or operated by any person subject to the background check including but not limited to history, if any, with any agency, board, city, county, territory, or state; and dates of issuance, denial, restriction, revocation, or suspension, and the reasons therefor of any individual or business permit; and

(6) Fingerprints, subject to a fee to cover actual costs, to submit to Department of Justice through LiveScan or equivalent, and may submit additional fee to cover actual costs for subsequent arrest notice for renewal applications, to determine whether the applicant has any of the following:

i. All convictions for any crime involving conduct which requires registration under California Penal Code Section 290 (Sex Offender Registration Act);

ii. Convictions of violations of California Penal Code Sections 266i (pandering), 315 (keeping or residing in house of ill-fame), 316 (keeping disorderly house), 318 (prevailing upon person to visit place for gambling or prostitution), 647(b) (prostitution); 653.23 (supervision of prostitute);

iii. Convictions of any felony offense involving the sale of a controlled substance specified in Section 1104, 11055, 11056, 11057, or 11058 of the Health and Safety Code;

iv. Convictions of crimes designated in Government Code Section 51032 (massage – grounds for denial of license), or any crime involving dishonesty, fraud, deceit, violence or moral turpitude;

v. All injunctions for nuisances under Penal Code Section 11225-11235 (red light abatement law);

vi. Convictions in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the referenced offenses of this subdivision;

vii. Conspiracy or attempt to commit any such offense described in subsections i-vi of this subpart.

2. General Business Information – applicant/owner provide all of the following:

a. The full true name under which the business will be conducted.

b. The present or proposed address where the business is to be conducted.

c. A complete description of all services to be provided.

d. The name and address of any massage business or other like business owned or operated by any person whose name is required to be given pursuant to this section.

e. A description of any other business to be operated on the same premises, or on adjoining premises, owned or controlled by the applicant.

f. The name, address and phone number of the owner and lessor of the real property, if any, upon or in which the business is to be conducted.

g. A true and complete copy of any lease associated with the premises.

3. Corporate information – applicant/owner provide all of the following:

a. If the applicant is a corporation, in addition to providing certified copies of the Articles of Incorporation and Bylaws, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter together with the state and date of incorporation and the names and residence addresses of each of its current officers and directors, and of each stockholder holding more than five (5) percent of the stock of that corporation, and its registered agent for receipt of process.

b. If the applicant is a partnership, the application shall set forth the names and residence address of each of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership as filed with the county clerk. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporate applicants shall apply to the corporate partner.

c. The applicant, corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer/employee. Such person shall complete and sign all application forms required of an individual applicant under this chapter. The corporation's or partnership's responsible managing officer must, at all times, meet all of the requirements set by this chapter or the corporation or partnership Certificate of Registration shall be suspended until a responsible managing officer who meets such requirements is designated. If no such person is found within ninety (90) days, the corporation or partnership Certificate of Registration is deemed canceled and a new application for registration must be filed.

d. If an applicant owner, operator, corporation, or partner owns five percent (5%) or more of the massage business and is not state certified, the police department shall conduct a background check of that owner, operator, corporation, or partner, and which shall include the information requested in section 4.40.050A.1(d)(i)-(vii) inclusive and the name and address of any massage business or other like business owned or operated by any person who is subject to the background check requirement of this subdivision.

4. Authorization for the city of San Bruno, its agents and employees, to seek information and conduct an investigation into the truth of the statements set forth in the application and into the background of the applicant, where authorized by this chapter.

5. A certificate of compliance from the health officer for the city of San Bruno (as designated by the city manager) that certifies that the premises of the massage business will meet all applicable codes and regulations must be submitted prior to application approval.

6. Zoning consistency check in writing from city's community development department. A zoning consistency check does not confer or authorize any entitlement to a use permit or building permit or similar, which process, if applicable, is separate from the Certificate of Registration process.

7. A signed statement that the owner/applicant shall be responsible for the conduct of all employees or independent contractors working on the premises of the business and that failure to comply with California Business & Professions Code 4600, and following, with any local, state, or federal law, or with the provisions of this chapter may result in the suspension or revocation of the city-issued Certificate of Registration.

8. Payment of a registration fee, if any, as per section 4.40.070.

B. Upon receipt of the application, the police department shall refer the application to other city departments that shall inspect the premises, if any, proposed to be used as a massage business and shall make a written recommendation to the police department concerning compliance with the respective requirements.

C. The chief of police or authorized representative shall have up to 60 days after the submission of all required information to complete his investigation.

4.40.060 Certified massage business--Registration issuance.

A. The police department shall issue a Certificate of Registration -- Business to any Certified Sole Proprietorship that demonstrates all of the following:

1. That the operation, as proposed by the applicant, if permitted, complies with all applicable laws, including, but not limited to, the city's building, zoning, business license, and health regulations.

2. The owner is the only person employed or used by that business to provide massage services.

3. The owner holds a valid and current State Certificate issued pursuant to Chapter 10.5 of the California Business & Professions Code and that the owner/applicant is the same person to whom the CAMTC issued a valid and current State Certificate and identification card.

4. That the applicant has not made a material misrepresentation in this application or with respect to any other document or information required by the city with respect to this application or for an application for a city massage permit under applicable law within the last ten (10) years.

B. The police department shall issue a Certificate of Registration – Business to a Certified Massage Business that demonstrates all of the following:

1. That the operation, as proposed by the applicant, if permitted, complies with all applicable laws, including, but not limited to, the city's building, zoning, business license, and health regulations.

2. The owner holds a valid and current State Certificate issued pursuant to Chapter 10.5 of the California Business & Professions Code and that the owner/applicant is the same person to whom the CAMTC issued a valid and current state certificate and identification card.

3. The massage business employs or uses only State Certified Massage Practitioners whose certifications are valid and current and that owners of the State Certificates are the same persons to whom CAMTC issued valid and current identification cards.

4. That the applicant has not made a material misrepresentation in this application or with respect to any other document or information required by the city with respect to this application or for an application for a city massage permit under applicable law within the last five (5) years.

5. That the background check for any applicant/owner authorized by this chapter shows that such person has not been required to register under the provisions of Section 290 of the California Penal Code; within five (5) years preceding the application had a conviction in court of competent jurisdiction for any of the crimes identified in Section 4.40.050A.1(d)(6)(ii-vii) herein; has not had an individual or business permit or license with any agency, board, city, county, territory, or state, denied, revoked, restricted, or suspended within the last five (5) years; and has not been subject to an injunction for nuisance under Penal Code Section 11225-11235 within the last five (5) years.

4.40.070 Registration fee.

A registration fee, if any, shall be set by resolution of the City Council and shall be required only for background check for those applicants/owners of a Certified Massage Business who are not State Certified and own five percent (5%) or more of the Certified Massage Business. A registration fee shall not be charged to State Certified Practitioners or State Certified owners/applicants.

4.40.080 Business license.

All persons shall obtain a business license where required by the city's business license provisions. The issuance of a Certificate of Registration (individual or business) is a condition precedent to the granting of such a business license. Upon the issuance of a Certificate of Registration pursuant to this chapter, the applicant shall apply for and furnish the information necessary to obtain a business license as required by the provisions of this code. No business license shall be issued until the Certificate of Registration has been issued and the business license fee, as provided in this code, has been paid. The business license fee shall be commensurate with the business license fee charged to other professionals as established by this code.

4.40.090 Exemptions from requirement for certificate of registration – Business.

The provisions of this chapter shall not apply to the following classes of persons or businesses while engaged in the performance of their duties:

A. Physicians, surgeons, chiropractors, osteopaths, nurses or any physical therapists duly licensed to practice their respective professions in the State of California and working within the scope of their licenses and under the direction of said professional in conformance with state law.

B. Barbers, cosmetologists, estheticians, and manicurists who are duly licensed under the laws of the State of California while engaging in practices within the scope of their licenses, except that this provision shall apply solely to the massaging of the neck, face, hands and feet, and/or scalp of the customers, and this exception shall not apply to full body work or full body massage.

C. Hospitals, nursing homes, sanatoriums, or other any health facilities duly licensed by the State of California.

D. Accredited junior colleges and colleges or universities whose coaches and trainers are acting within the scope of their employment.

E. Trainers of amateur, semi-professional or professional athletes or athletic teams while engaging in their training responsibilities for and with athletes; and trainers working in conjunction with a specific athletic event such as an outdoor road or bike race.

F. Health clubs, health spa, gymnasium, or other similar facility designed or intended for general physical exercise or conditioning in which the furnishing of massage or bathing services or facilities is subordinate and incidental, except that the person performing massage services shall obtain a State Certification and city Certificate of Registration in conformance with this chapter.

4.40.100 Health and safety requirements.

All premises of Certified Massage Businesses shall be subject to periodic inspection by the city for compliance with health, safety, and building standards and all such establishments shall comply with the following requirements:

A. Health and safety requirements - facility:

1. One artificial white light of not less than forty (40) watts shall be provided in each room where massage is being administered.

2. The walls shall be clean and painted with an approved washable mold resistant paint in all rooms where water or steam baths are given.

3. Floors shall be free from any accumulation of dust, dirt, or refuse.

4. All equipment used in the massage operation shall be maintained in a clean and sanitary condition.

5. Dressing and locker facilities shall be provided for patrons. Security deposit facilities for the protection of the valuables of the patrons shall also be available.

6. One front door shall be provided for patron entry to the massage business, which shall open to an interior patron reception and waiting area immediately inside the front door. All patrons and any persons other than individuals employed or retained by the massage business shall be required to enter and exit through the front.

7. No massage business located in a building or structure with exterior windows fronting a public street, highway, walkway, or parking area shall block visibility into the interior reception and waiting area through the use of curtains, closed blinds, tints, or any other material that obstructs, blurs or darkens the view into the premises.

B. Health requirements -- linens:

1. Towels, sheets, clothes and linens of all types, and items for personal use of operators and patrons shall be clean and freshly laundered and shall not be used for more than one person.

2. Reuse of such items is prohibited unless the same has first been laundered. Such items shall not be laundered or dried in any massage business unless such business is provided with approved laundry facilities for such laundering and drying.

3. Heavy white paper may be substituted for sheets provided that such paper is used once for every person and then discarded into a sanitary receptacle.

C. General health and safety regulations.

1. No person afflicted with an infection or parasitic infestation transmissible to a patron shall knowingly provide massage therapy to a patron, or remain on the premises of a Certified Massage Business while so infected or infested.

2. It shall be unlawful for any Certified Massage Practitioner or other person to massage the genital area of any patron or the breasts of any female patron or for any operator of a massage business to allow or permit such massage.

3. It shall be unlawful for any Certified Massage Practitioner or other person to be other than fully clothed in non-transparent clothing at all times that shall not expose their genitals, pubic area, buttocks, or chest or for any operator of a massage business to allow or permit prohibited dress.

4. If during the life of a Certificate of Registration, the applicant has any change in information concerning the original application, notification must be made to the Chief of Police, in writing, within ten (10) days of the change.

5. It shall be unlawful for any Certified Massage Business or Certified Massage Practitioner to provide a massage between 9:00 p.m. and 7:00 a.m. and the hours of operation shall be displayed in a conspicuous public place in the reception area and in any front window clearly visible from outside of the massage business. Patrons and visitors shall be permitted in the massage business only during hours of operation.

6. A list of services available and the cost of such services shall be posted in an open and conspicuous public place on the premises. The services shall be described in English and may also be described in such other languages as the business chooses. No massage business operator shall permit, and no person employed or retained by the Certified Massage Business shall offer to perform, any services or fees other than those posted.

7. It shall be unlawful for any Certified Massage Business or any Registered Certificate Holder, owner, operator, or responsible managing officer/employee to violate any of the mandatory requirements of this chapter applicable to massage business.

4.40.110 Inspection by city officials and notices of violation.

A. The investigating officials of the city, including the county health officer, shall have the right to enter the premises from time to time during regular business hours prior to the issuance of a permit and subsequently for the purpose of making reasonable inspections to enforce compliance with this chapter and with building, fire, electrical, plumbing, and/or health and safety regulations. In the event a Certificate of Registration has been issued, it may be revoked or suspended in the manner hereinafter set forth in this chapter.

B. Whenever city officials make an inspection of a massage business and finds that any provision of this chapter has been violated, he or she shall give notice of such violation by means of an inspection report or other written notice. In any such notification, the investigating person shall:

1. Set forth the specific violation or violations found, and shall notify the Registered Certificate Holder that failure to comply with any notice issued in accordance with the provisions of this chapter may result in the revocation or suspension of the Certificate of Registration.

2. The Registered Certificate Holder may be issued a warning that any future violation of this chapter may result in suspension or revocation of the Certificate of Registration, or the City officials may establish a specific and reasonable period of time for the correction of the violation or violations. No time to correct need be given for health and safety violations or violations of criminal law.

3. The Registered Certificate Holder and operator shall take immediate action to correct violations and city officials may re-inspect the business for compliance.

4.40.120 Display of signs and permits.

A recognizable and legible sign shall be posted at the main entrance of each massage business identifying the business as such business. The owner or operator of such massage business shall display the Certificate of Registration issued to the business and to each massage practitioner employed in the business in an accessible and conspicuous place on the premises.

4.40.130 Transfer of massage business certificate of registration.

A Certificate of Registration - Business shall not be transferable except with the written approval of the police department. A written application for such a transfer shall be made to the police department. The application for such transfer shall contain the same information as required herein for an initial application for a permit as set forth in Section 4.40.050. In the event of denial of such transfer, notification of and reasons for denial shall be set forth in writing and shall be sent to the applicant by means of registered or certified mail or delivered in person.

4.40.140 Notification of changes.

Every massage business owner or operator shall report in writing immediately to the police department any and all changes of address of ownership of the massage business, and any changes or transfers of massage practitioners employed in the business or practice.

ARTICLE 3. Massage Practitioners

4.40.150 Massage practitioners – Certificates of registration; non-transferable.

A. It shall be unlawful to practice massage for any form of consideration as a principal, employee, agent or otherwise within the City, unless:

1. A person has a current and valid Certificate of Registration issued pursuant to this chapter; or
2. A State Certified Practitioner is currently working for a State Certified Massage Business with a current and valid Certificate of Registration issued pursuant to this chapter.

This section expressly applies to all Massage Practitioners working as individuals unless specifically exempted pursuant to the provisions of this chapter.

B. Subject to the investigation authorized by Business and Professions Code 4612(b)(7), the police department shall issue a Certificate of Registration to any Certified Massage Practitioner who demonstrates the following:

1. A valid and current State Certification; and
 2. A valid and current CAMTC issued identification card.
- C. A Certificate of Registration - Individual shall not be transferable.

ARTICLE 4. Certificates Of Registration – Expiration, Denial, Revocation, Suspension, and Appeals

4.40.160 Certificate of registration expiration and renewal.

- A. Certificates of Registration shall be valid as follows:
1. Massage Businesses – on a fiscal year basis, for one year from issuance or as extended pursuant to this chapter;
 2. For Sole Proprietors – on a fiscal year basis, for one year from issuance or as extended pursuant to this chapter;
 3. For Massage Practitioners – on a fiscal year basis, for one year from issuance or as extended pursuant to this chapter.

B. The city Certificate of Registration shall be renewed in accordance with the expiration schedule set forth in this section.

C. The Registered Certificate Holder – Business shall apply to the city to renew such registration within sixty (60) days prior to expiration and shall apply to the city to amend the Certificate of Registration within thirty (30) days after any change in the registration information including but not limited to a change in work address. The police department may extend the Certificate of Registration one time in a renewal period for up to ninety (90) days for Sole Proprietors who provide timely evidence of a renewal application to CAMTC.

D. The Registered Certificate Holder – Individual shall apply to the city to renew such registration within thirty (30) days prior to expiration of the Certificate of Registration and shall apply to the city to amend the Certificate of Registration within ten (10) days after any change in the registration information including but not limited to a change in the work address. The police department may extend the Certificate of Registration one time during a renewal period for up to ninety (90) for individuals who provide timely evidence of a renewal application to CAMTC.

E. If a renewal application and all required information for the renewal is not received by the police department as provided herein, the Certificate of Registration shall be deemed expired and no privilege to provide massage in San Bruno shall exist. Renewals shall be processed and investigated and the applicant is required to submit that information which has changed from the last application or renewal.

4.40.170 Revocation or suspension of certificate of registration -- Massage business.

A. Certificates of Registration issued to a Certified Massage Business or Certified Sole Proprietorship may be immediately suspended, or revoked by the police department upon any of the following grounds:

1. A Registered Certificate Holder is no longer in possession of a current and valid State Certification.
2. A non-certified owner, operator, corporation, or partner who owns five percent (5%) or more of the massage business has been convicted of a crime that would have caused denial of the Certificate of Registration.
3. A Registered Certificate Holder has made a material misrepresentation on the application for the Certificate of Registration or renewal.

4. The Registered Certificate Holder has engaged in conduct or operated the Certified Massage Business or as a Massage Practitioner in a manner which violates any of the provisions of this chapter, any conditions of the permit, or any of the laws which would have been grounds for denial of the permit, including but not limited to those offenses enumerated in section 4.40.050(A)(1)(d)(6) herein.

5. The Registered Certificate Holder employs or uses non-certified massage technicians to perform massage services.

6. Violations of this chapter, California Business & Professions Code section 4600, and following, and/or any of the laws which would have been grounds for denial of the permit including but not limited to those offenses enumerated in section 4.40.050(A)(1)(d)(6) have occurred on the business premises.

7. The Registered Certificate Holder has failed to comply with one or more of the health and safety requirements under this chapter.

8. The Registered Certificate Holder has engaged in fraud, misrepresentation, or false statements in obtaining or maintaining a Certificate of Registration.

The term of suspension shall be not more than sixty (60) days.

4.40.180 Revocation or suspension of certificate of registration -- Individuals.

A. The police chief may immediately suspend, or revoke Certificates of Registration issued to individuals upon the following grounds:

1. A Registered Certificate Holder is no longer in possession of a current and valid State Certification;

2. A Registered Certificate Holder has made a material misrepresentation on the application for the Certificate of Registration or renewal;

3. A Registered Certificate Holder has engaged in conduct as a Massage Practitioner in a manner which violates any of the provisions of this chapter, any conditions of the permit, or any of the laws which would have been grounds for denial of the permit, including but not limited to those offenses enumerated in section 4.40.050(A)(1)(d)(6) herein;

4. Violations of this chapter, California Business & Professions Code section 4600, and following, and/or any of the laws which would have been grounds for denial of the permit including but not limited to those offenses enumerated in section 4.40.050(A)(1)(d)(6) have occurred on the business premises;

5. A Registered Certificate Holder has failed to comply with one or more of the health and safety requirements under this chapter;

6. A Registered Certificate Holder has engaged in fraud, misrepresentation, or false statements in obtaining or maintaining a Certificate of Registration.

The term of suspension of any permit shall be not more than sixty (60) days.

4.40.190 Suspension or revocation hearing.

A. A hearing shall be scheduled upon not less than ten (10) calendar day's notice to the Registered Certificate Holder stating the grounds for the immediate suspension or proposed revocation. Notice shall be given by personal service or certified or registered mail to the address shown on the last application or renewal. If reasonable attempts to otherwise serve are not successful, service may be provided by first class mail.

B. Notice of the decision shall be given in the same manner as for the hearing.

C. If the permit is suspended or revoked, the permit shall be surrendered. The city may provide notice of such suspension or revocation to the owner of the massage establishment and/or the owner of the property, and advising them that the Registered Certificate Holder may not engage in massage on the premises during the period of suspension or after revocation.

D. Service shall be deemed complete when personal service is made, when the certified letter is delivered, or when the decision is mailed by first class mail.

E. Unless otherwise specifically prohibited by law, the burden of proof is on the Registered Certificate Holder/applicant in any hearing or other matter under this chapter. Formal rules of evidence shall not apply to the hearing.

4.40.200 Appeal from denial, revocation, suspension.

The decision of the chief of police to deny, revoke or suspend a Certificate of Registration may be appealed by the Registered Certificate Holder to the city council in accordance with the appeals procedures set forth in Chapter 1.32 of the Municipal Code.

4.40.210 Reapplication after denial.

No reapplication for a Certificate of Registration will be accepted within one year after an application or renewal is denied or a Certificate of Registration is revoked, provided that, if a Certificate of Registration -- Business is denied for the sole reason that a massage practitioner does not possess the required training, reapplication may occur when the required training is completed.

4.40.220 Re-opening of establishment at same location once closed.

No massage establishment shall be re-established at a location where a massage establishment was closed due to conduct that violated any of the provisions of this Chapter for one year.

ARTICLE 5. Miscellaneous

4.40.230 Public nuisance.

Any massage business operated, conducted, or maintained contrary to the provisions of this chapter shall be unlawful and a public nuisance, and the city attorney may in the exercise of discretion, in addition to or in lieu of prosecuting a criminal action hereunder, commence an action or actions, proceeding or proceedings, for the abatement, removal and enjoinder thereof, in a manner provided by law.

4.40.240 Violations, penalties.

A. Unless otherwise exempted by the provisions of this chapter, every person, whether acting as an individual, owner, employee of the owner, operator, or employee of the operators or whether acting as a mere helper for the owner, employee, or operator, or whether acting as a participant or worker in any way, who gives massages or conducts a massage business, or who, in connection with the business, gives or administers, or practices the giving or administering of, massages or baths or any of the services defined in this chapter, without first obtaining State Certification and a City Certificate of Registration, or who shall violate any provision of this chapter, shall be guilty of a misdemeanor.

B. Any owner, licensee, manager, or Registered Certificate Holder in charge or in control of a massage business or Certified Massage Business or Certified Sole Proprietorship who knowingly employs a person who is not in possession of a valid, unrevoked Certificate of Registration, or who allows such persons to perform, operate, or practice within such a place of business, shall be guilty of a misdemeanor.

C. The city attorney may reduce the penalties above to an infraction. The penalties for such violations are as set forth in Chapter 1.28 of the Municipal Code.

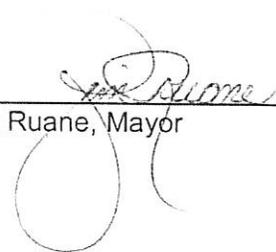
Section 4. This ordinance is categorically exempt from the California Environmental Quality Act pursuant because it is not a project and there is no possibility that the ordinance may have a significant effect on the environment.

Section 5. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The City Council of the City of San Bruno hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be declared unconstitutional.

Section 6. This Ordinance shall take effect and be in force 30 days after its adoption.

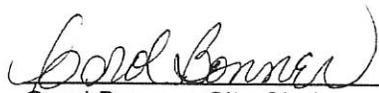
Section 7. This ordinance shall remain in effect only until January 1, 2015, or such other time as may be established thereafter by Cal. Business & Professions Code § 4620, and following.

Section 8. The City Clerk shall publish this Ordinance according to law.



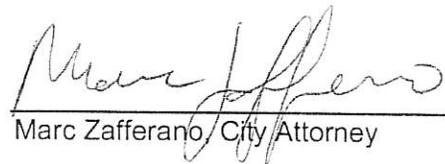
Jim Ruane, Mayor

ATTEST:



Carol Bonner, City Clerk

APPROVED AS TO FORM:



Marc Zafferano, City Attorney

--oOo--

I hereby certify that foregoing **Ordinance No. 1812**
was introduced at a regular meeting of the San Bruno City Council on
May 14, 2013, and adopted by the San Bruno City Council at a regular meeting on
May 28, 2013, by the following vote:

AYES: Councilmembers: Ibarra, Medina, O'Connell, Salazar, Mayor Ruane

NOES: Councilmembers: None

ABSENT: Councilmembers: None



Carol Bonner, City Clerk



CALIFORNIA
MASSAGE THERAPY COUNCIL

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Summary of Changes to CAMTC's Statute Applicable to Local Government

On September 18, 2014 California Assembly Bill AB 1147, the Massage Therapy Act, was signed into law by Governor Jerry Brown. The new Massage Therapy Act will go into effect on January 1, 2015. AB 1147 substantially changes Business and Professions Code sections 460, 4600-4621, and Government Code section 51034. Many of these changes are applicable to the regulation of CAMTC certificate holders and massage businesses by local government.

How does this new statute differ from existing law?

- **General Provisions**
 - AB 1147 is a significant change from current law. Under current law, Business and Professions Code section 4612 provides that cities and counties may not impose ordinances, regulations, rules, requirements, restrictions, land use regulations, moratoria, conditional use permits, and zoning requirements on CAMTC certified individuals or businesses that use only CAMTC certified professionals to provide massage for compensation, unless those regulations etc. are also uniformly applied to other businesses that provide professional services, or meet another specifically identified exceptions in the law.
 - Under AB 1147, as of January 1, 2015, cities and counties will be generally free to regulate massage businesses as long as the regulation of those businesses doesn't violate the provisions of Business and Professions Code sections 460, 4600-4621, Government Code section 51034, and the other general legal requirements applicable to cities and counties authority to regulate businesses.
 - Under AB 1147, CAMTC is authorized to certify and take action against **individuals** who request or obtain certification, and cities and counties are free to regulate massage **businesses** subject to certain conditions and requirements set forth in the law.
- **AB 1147 contains new legislative intent language.**
 - The new legislative intent language informs local government that:
 - The Legislature intends that broad control over land use be vested in local government for the purpose of managing massage establishments in their communities, but that the requirements and practice of the profession of massage therapy remains a matter of statewide concern, regulation, and oversight.

- The Legislature intends that local governments impose and enforce only “reasonable and necessary fees and regulations,” in keeping with existing law and being mindful to protect the needs of legitimate business owners and massage professionals, especially sole providers.
 - The new legislative intent language also informs local government, law enforcement, nonprofit stakeholders, massage professionals and the massage industry that it intends all of the parties to work together to improve communication, information sharing, and collaborate in the implementation of the Massage Therapy Act and develop a model ordinance.
- **AB 1147 substantially changes the ability of cities and counties to impose land use regulations on massage businesses.**
 - The revised version of Business and Professions Code section 460(a) generally provides that no city or county shall prohibit a person or group of persons certified by CAMTC from engaging in their business, occupation, or profession, or any portion of that business, occupation, or profession. CAMTC interprets this provision to mean that cities and counties cannot completely ban CAMTC certificate holders from engaging in the business of massage, impose moratoriums on the massage businesses of CAMTC certificate holders (including stopping them from replacing certificate holders that have left the business or expanding the business), place caps on the number of massage businesses of CAMTC certificate holders in a jurisdiction, nor can a city or county completely ban the provision of outcall massage services or other portions of a massage business without violating this provision of law.
 - The revised version of Business and Professions Code section 460(b) generally provides that no city or county shall prohibit a person certified by CAMTC from engaging in any act or performing any procedure that falls within their professionally recognized scope of practice.
 - Under AB 1147, Business and Professions Code section 460 specifically provides that cities and counties may adopt or enforce a local ordinance governing zoning, business licensing, or reasonable health and safety requirements for all massage establishments. But this provision is limited by Government Code section 51034.
 - AB 1147 specifically states in Government Code section 51034 that cities and counties may, by local ordinance, require that all **massage establishments** obtain a license, permit, certificate, or other authorization in order to operate lawfully in their jurisdiction.
 - However, cities and counties are specifically prohibited from imposing a requirement that a CAMTC **certificate holder** obtain any other license, permit, certificate, or other authorization to provide massage for compensation or take any test, medical exam, background check, or comply with educational requirements beyond what is required for CAMTC certification. CAMTC interprets this to mean that cities and counties cannot require a CAMTC certified individual to pass a background check, provide proof of education or complete additional education, require a permit for an individual (not a business) to provide massage for compensation, require

individual registration, require an authorization and charge a fee to an individual in order to verify CAMTC certification, or require any other authorization to provide massage for compensation.

- **AB 1147 specifically prohibits cities and counties from:**
 - Defining or regulating any massage establishment as adult entertainment, regardless of whether the establishment is using CAMTC certified individuals to provide massage for compensation or not. CAMTC interprets this to mean that cities and counties may not define a massage business as an adult entertainment business and regulate it in that manner, nor may cities and counties impose regulations on massage businesses (such as 300-foot buffers from schools, parks, daycare centers, etc., or the banning of condoms on the premises) if adult entertainment businesses are also regulated in the same manner;
 - Requiring any massage establishment to have windows or walls that don't extend from floor to ceiling or have other internal physical structures that interfere with a client's reasonable expectation of privacy;
 - Requiring client draping that goes beyond the covering of genitalia and female breasts, or mandates that the client wear special clothing;
 - Not allowing a massage establishment to lock its external doors if the establishment is a business entity owned by one individual with one or no employees or independent contractors;
 - Requiring massage establishments to post any notices in an area that may be viewed by clients that contains explicit language describing sexual acts, mentions genitalia, or specific contraception devices;
 - Imposing a requirement that a CAMTC certificate holder take any test, medical exam, background check, or comply with educational requirements beyond what is required for CAMTC certification;
 - Imposing a requirement that a CAMTC certificate holder obtain any other license, permit, certificate, or other authorization to provide massage for compensation;
 - Imposing a dress code requirement on a CAMTC certificate holder while that person is engaged in the practice of massage or visible to clients in a massage establishment in excess of the following:
 - Attire that is transparent, see-through, or substantially exposes the person's undergarments;
 - Swim attire if not providing a water-based massage modality approved by the council;
 - In a manner that exposes breasts, buttocks, or genitals;
 - In a manner that violates Penal Code section 314 (indecent exposure); or
 - In a manner that is otherwise deemed by CAMTC to constitute unprofessional attire based on the custom and practice of the massage profession in California.
 - Not allowing a CAMTC certificate holder to perform massage for compensation on the gluteal muscles, not allowing specific massage techniques recognized by CAMTC as legitimate, or imposing any other

specific restriction on professional practice beyond those set forth in CAMTC's statute as a basis for denial or discipline.

- Under both current law and the new Massage Therapy Act, cities and counties have the authority to pass ordinances requiring that all those who provide massage services in their jurisdiction be CAMTC certified (just like some jurisdictions currently or have in the past required certification by the NCBTMB). Ordinances requiring CAMTC certification for those providing massage services do not interfere with the voluntary nature of certification, because massage providers are still free to choose to either be certified or work in another jurisdiction.
- Under both current law and the new Massage Therapy Act, there is no distinction in the rights and privileges afforded to CMTs, CMPs, or CCMPs. All are certificate holders and all are subject to the protections in Business and Professions Code sections 460, 4600-4621, and Government Code section 51034.
- **AB 1147 imposes new educational requirements.**
 - For applications received on or after January 1, 2015, the applicant may only be certified as a Certified Massage Therapist (CMT) if he or she has:
 - 500 hours of education from approved schools, and
 - has passed a CAMTC approved exam.
 - Removes current Certified Massage Practitioner (CMP) tier of certification for applicants, but allows those already certified as CMP to continue to be certified as CMP as long as they continue to re-certify in a timely manner.
 - New applications for CMP will not be accepted on or after January 1, 2015.
 - Allows Conditionally Certified Massage Practitioners (CCMP) to continue to work towards certification as a CMP if annual educational and reporting requirements are met.
- **AB 1147 specifically identifies the following newly articulated bases for denial of applications and imposition of discipline on certificate holders** (some of which have been previously imposed by CAMTC policy and are now clearly stated in the law).
 - Engaging in sexually suggestive advertising related to massage services;
 - Engaging in any form of sexual activity on the premises of a massage establishment where massage is provided for compensation, excluding a residence;
 - Engaging in sexual activity while providing massage services for compensation;
 - Practicing massage with a suspended certificate or practicing outside of the conditions of a restricted certificate;
 - Providing massage of the genitals or anal region;
 - Providing massage of female breasts without the written consent of the person receiving the massage and a referral from a licensed California Health Care Provider;
 - Attempting to procure a certificate by fraud, misrepresentation, or mistake;
 - Failing to fully disclose all requested information on the application;
 - Being inappropriately dressed while engaged in the practice of massage for compensation or while visible to clients in a massage establishment, in any of the following:

- Attire that is transparent, see-through, or substantially exposes the person's undergarments;
 - Swim attire if not providing a water-based massage modality approved by the council;
 - In a manner that exposes breasts, buttocks, or genitals;
 - In a manner that violates Penal Code section 314 (indecent exposure); or
 - In a manner that is otherwise deemed by CAMTC to constitute unprofessional attire based on the custom and practice of the massage profession in California.
- **The new law also specifically requires that CAMTC deny an application or revoke the certificate of a certificate holder if a person is required to register as a sex offender in California or another state** (there is no discretion on this issue).
- **The following bases for denial of applications or discipline of certificate holders existing in current law remain in the new Massage Therapy Act:**
 - Engaging in unprofessional conduct;
 - Procuring a certificate by fraud, misrepresentation, or mistake;
 - Impersonating an applicant or acting as a proxy for an applicant in an exam required for certification;
 - Violating or attempting to violate or assisting or abetting in the violation of any provision of CAMTC's statute or any rule or bylaw;
 - Committing a fraudulent, dishonest, or corrupt act that is substantially related to the qualifications or duties of a certificate holder;
 - Denial of licensure, revocation, suspension, restriction, citation, or any other disciplinary action against an applicant or certificate holder by another government agency;
 - Conviction of any felony, misdemeanor, infraction, or municipal code violation, or liability in an administrative or civil action for any act that is substantially related to the qualifications, functions, or duties of a certificate holder;
 - Committing an act punishable as a sexually related crime; and
 - CAMTC certified owners or operators of massage businesses are responsible for the conduct of all those providing massage for compensation on the premises of the business.
- **Evidentiary Issues related to denials and discipline.**
 - In order to take action against an applicant or certificate holder, CAMTC must have reliable evidence that the individual violated a provision of CAMTC's law. Various types of evidence may be used, including but not limited to:
 - Certified or verified copies of administrative decisions;
 - Certified copies of civil orders or decisions related to violations of municipal code sections;
 - Certified or verified copies of administrative citations; and
 - Declarations from law enforcement officers, attesting under penalty of perjury, to conduct the officer personally witnessed.

- A mere complaint to CAMTC, without evidence supporting an alleged violation of the law, is not sufficient for CAMTC to take action. CAMTC therefore works very closely with law enforcement agencies and others that regulate massage in order to gather the evidence needed to take action against an applicant or certificate holder.
- Both current law and the revised provisions of the Massage Therapy Act provide for significant information sharing between CAMTC and law enforcement agencies or governmental agencies that regulate massage.
 - Upon request, CAMTC may share information about applicants and certificate holders including: current status of an application or certificate; history of disciplinary actions; home and work addresses; length of suspension; and any other information needed to verify facts relevant to administering a local ordinance.
 - Upon request, law enforcement agencies and governmental agencies that regulate massage are authorized to share information about applicants and certificate holders with CAMTC, including but not limited to the following: current status of any local application or permit; history of legal or administrative action taken; information related to criminal activity or unprofessional conduct, including police reports and declarations of conduct; home and work addresses; and any other information necessary to verify information or implement the Massage Therapy Act.
- Under current law, the legal standard for denial of an application is preponderance of the evidence, and the legal standard for discipline of a certificate holder is clear and convincing evidence. As of January 1, 2015, the legal standard for discipline of a certificate holder changes to preponderance of the evidence.
- Under both current law and the revised law, CAMTC may suspend a certificate in two distinct situations: By operation of law; or based on evidence of a sex crime or related felony.
 - In order to suspend a certificate by operation of law, CAMTC must have notice that the person was arrested and had charges filed against them for 647(b) or another sexually related crime. If they are convicted of 647(b) or another sexually related crime, the certificate is subject to permanent revocation. However, if they are convicted of something else (like 415 PC-disturbing the peace, or 602(k) PC – trespass) or the case is dismissed, CAMTC is legally required to reinstate the certificate. In these cases (where the certificate has been reinstated), CAMTC may still proceed with discipline of a certificate holder if it has sufficient evidence to prove that a violation of the Massage Therapy Act occurred.
 - Currently, in order to suspend a certificate based on evidence (including declarations), there must be clear and convincing evidence that a certificate holder committed an act punishable as a sexually related crime or a felony that is substantially related to the qualification, functions, or duties of a certificate holder (drug offenses are not considered to be substantially related) and any credible mitigating evidence must be considered. As of January 1, 2015, the

legal standard changes from clear and convincing evidence to preponderance of the evidence.

- **Regulation of Massage Schools.**
 - Under both current law and the revised version of the law CAMTC has the authority to approve massage schools to ensure that they meet minimum standards for training and curriculum, and impose fees.
 - Provisions related to CAMTC's authority to investigate whether an applicant actually has the education he or she claims remain unchanged.
 - AB 1147 provides further direction to CAMTC in relation to the inspection and approval of massage schools and specifically provides that:
 - CAMTC shall develop policies, procedures, rules, or bylaws governing the requirements and process for the approval and unapproval of schools, including but not limited to:
 - Corrective action to return a school to approved status;
 - Acceptable curriculum;
 - Facility requirements;
 - Student-teacher ratios;
 - Clinical practice requirements; and
 - Acceptance of accreditation from other organizations.
 - CAMTC may charge a reasonable fee for the inspection or approval of schools, but the fee may not exceed the reasonable cost of the inspection or approval.
- **AB 1147 substantially changes CAMTC's existing Board structure.**
 - Under current law, CAMTC's Board may be comprised of up to 20 members. Of those 20 members, eight members are chosen by four different professional massage associations (two each), one member is chosen by each statewide association of private postsecondary schools that meet the requirements in the law, one member is chosen by the League of California Cities, one member is chosen by the California State Association of Counties, one member is chosen by the Director of Consumer Affairs, one member is chosen by the Office of the Chancellor of the California Community colleges, and the remainder are appointed by the Board.
 - As of September 15, 2015, a new Board will replace the existing Board. This new Board will be comprised of 13 members chosen in the following manner:
 - One member chosen by the League of California Cities;
 - One member chosen by the California Police Chiefs Association;
 - One member chosen by the California State Association of Counties;
 - One member chosen by a representative of an anti-human trafficking organization, with that organization being chosen by CAMTC;
 - One member chosen by the Office of the Chancellor of the California Community Colleges;
 - One public member chosen by the Director of the Department of Consumer Affairs;
 - One member chosen by the California Association of Private Postsecondary Schools;

- One member who is a California resident, has been practicing massage for at least three years, and is CAMTC certified, chosen by the California Chapter of the American Massage Therapy Association;
- One member who is a California resident, has been practicing massage for at least three years, and is CAMTC certified, chosen in a rotating manner by the other three professional massage associations;
- One member who is a public health official representing a city, county, or state health department, chosen by CAMTC;
- One member who is a California licensed attorney, practicing for at least three years, who represents a California city, chosen by CAMTC;
- One member who represents a massage business entity operating in California for at least three years, chosen by CAMTC; and
- One member who brings needed knowledge and expertise to the Board, appointed by CAMTC.

For more information on the new statute, AB 1147, please go to the following link:

http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=ab_1147&sess=CUR&house=B&search_type=email

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN BRUNO
REPEALING EXISTING
CHAPTER 4.40 AND ENACTING NEW CHAPTER 4.40 (MESSAGE BUSINESSES)
TO TITLE 4, LICENSE AND REGULATIONS, OF THE
SAN BRUNO MUNICIPAL CODE,
RELATING TO THE REGULATION OF MESSAGE BUSINESSES**

The City Council of the City of San Bruno, State of California,
ORDAINS as follows:

SECTION 1. FINDINGS. In enacting these regulations the City Council recognizes that massage is a viable professional field offering the public valuable health and therapeutic services. The City Council finds and declares as follows:

(a) The registration and health and safety requirements imposed by this chapter are reasonably necessary to protect the health, safety and welfare of the citizens of the City.

(b) Massage businesses have been found to present opportunities for acts of prostitution and other unlawful activity, and, in fact, officers have made arrests for prostitution in massage businesses located within the City. Municipalities within the County have also reported instances where acts of prostitution have occurred in massage businesses.

(c) The California legislature and the courts have long recognized the necessity of imposing reasonable regulations and standards for the operation of massage businesses, including but not limited to minimum educational and experience requirements, passage of a practical examination of competence, sanitary conditions, hours of operation, and other operational regulations designed to minimize opportunities for illegal activities and to ensure the protection of the health, safety and welfare of citizens.

(d) There is a significant risk of injury to clients of massage businesses by improperly trained or poorly educated massage practitioners.

(e) The presence of businesses known or reputed to be places of prostitution or other illegal activity can have an adverse impact on surrounding properties and result in blight, foster further illegal activities, and generally become a public nuisance.

SECTION 2. Chapter 4.40 (Massage Establishments) of Title 4 (Licenses and Regulations) of the San Bruno Municipal Code, as presently written, is hereby repealed.

SECTION 3. New Chapter 4.40 (Massage Businesses) of Title 4 (Licenses and Regulations) of the San Bruno Municipal Code is adopted, to read as follows:

Chapter 4.40 MASSAGE BUSINESSES

4.40.010 PURPOSE AND INTENT.

(a) In enacting this chapter, the City Council recognizes that commercial massage therapy is a professional pursuit which can offer the public valuable health and therapeutic services. The City Council further recognizes that, unless properly regulated, the practice of massage therapy and the operation of massage businesses may be associated with unlawful activity and pose a threat to the quality of life in the local community. Accordingly, it is the purpose and intent of this chapter to protect the public health, safety, and welfare by providing for the orderly regulation of businesses providing massage therapy services, discouraging prostitution and related illegal activities carried on under the guise of massage therapy, and establishing certain sanitation, health, and operational standards for massage businesses.

(b) Furthermore, it is the purpose and intent of this chapter to address the negative impacts identified in the City Council's findings to reduce or prevent neighborhood blight and to protect and preserve the quality of City neighborhoods and commercial districts; and to enhance enforcement of criminal statutes relating to the conduct of operators and employees of massage businesses.

(c) It is the Council's further purpose and intent to rely upon the uniform statewide regulations applicable to massage practitioners and establishments that were enacted by the State Legislature in 2008 as Business and Professions Code sections 4600 *et seq.* by Senate Bill 731, and amended in 2011 by Assembly Bill 619 and in

2014 by Assembly Bill 1147, to restrict the commercial practice of massage in the City to those persons duly certified to practice by the California Massage Therapy Council, and to provide for the registration and regulation of massage businesses for health and safety purposes to the extent allowed by law.

4.40.020 DEFINITIONS.

For the purposes of this chapter, unless the particular provision or the context otherwise clearly requires, the definitions in this section shall govern the construction, meaning, and application of words and phrases used in this chapter:

(a) "Business" includes, but not by way of limitation, everything about which a person can be employed, and means that which occupies the time, attention, and labor of individuals for the purpose of producing a livelihood or profit, and connotes the efforts of individuals by varied and diverse methods of dealing with each other, to improve their individual economic conditions, and for the purposes of this chapter shall include, without limitation, the advertising and soliciting of massages. The term "business" includes, but is not limited to, a massage practitioner who is the sole owner, operator and employee of a massage business operating as a sole proprietorship, as well as a massage establishment which employs massage practitioners and therapists.

(b) "California Massage Therapy Council" or "CAMTC" means the Massage Therapy Organization formed pursuant to Business and Professions Code section 4600.5.

(c) "Certified Massage Practitioner" means any individual certified by the California Massage Therapy Council as a Certified Massage Therapist or as a Certified Massage Practitioner pursuant to California Business and Professions Code sections 4600 *et seq.*

(d) "Client" means the customer or patron who pays for or receives massage services.

(e) "Compensation" means the payment, loan, advance, donation, contribution, deposit, exchange, or gift of money or anything of value.

(f) "City Registration Certificate" means a registration certificate issued by the Certification Officer upon submission of satisfactory evidence that a massage business employs or uses only certified massage practitioners pursuant to this Chapter.

(g) "Certification Officer" means a representative of the San Bruno Police Department.

(h) "Employee" means any person employed by a massage business who may render any service to the business, and who receives any form of compensation from the business.

(i) "Health Officer" means a representative from the County Department of Environmental Health.

(j) "License Board" means the License Board of the City of San Bruno, which shall consist of the Chief of Police, the Community Development Director, and the Finance Director, or their designees.

(k) "Massage" or "massage therapy," means and refers to any method of treating the external parts of the body for remedial, health, or hygienic purposes for any form of compensation by means of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, or stimulating the external parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances; or with or without supplementary aids, such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations commonly used in this practice; or by baths, including but not limited to Turkish, Russian, Swedish, Japanese, vapor, shower, electric tub, sponge, mineral, fomentation, or any other type of bath.

(l) "Massage business" means any business that offers massage therapy in exchange for compensation, whether at a fixed place of business or at a location designated by the customer or client through outcall massage services. Any business that offers any combination of massage therapy and bath facilities – including, but not limited to, showers, baths, wet and dry heat rooms, pools and hot tubs – shall be deemed a massage business under this chapter. The term "massage business" includes a Certified Massage Practitioner who is the sole owner, operator and employee of a massage business operating as a sole proprietorship.

(m) "Operator" or "massage business operator" means any and all owners of a massage business.

(n) "Outcall massage" means the engaging in or carrying on of massage therapy for compensation in a location other than the business operations address set forth in the massage business's City Registration Certificate.

(o) "Owner" or "Massage business owner" means any of the following persons:

(1) Any person who is a general partner of a general or limited partnership that owns a Massage Business.

(2) Any person who has a five percent (5%) or greater ownership interest in a corporation that owns a Massage Business.

(3) Any person who is a member of a limited liability company that owns a Massage Business.

(4) Any person who has a five percent (5%) or greater ownership interest in any other type of business association that owns a Massage Business.

(p) "Person" means any individual, firm, association, partnership, corporation, joint venture, limited liability company, or combination of individuals.

(q) "Practitioner" or "Massage Practitioner" shall be used interchangeably and mean any person who administers Massage to another person, for any form of consideration (whether for the Massage, as part of other services or a product, or otherwise).

(r) "Reception and waiting area" means an area immediately inside the front door of the Massage Business dedicated to the reception and waiting of patrons of the Massage Business and visitors, and which is not a Massage Therapy room or otherwise used for the provision of Massage Therapy services.

(s) "Registration" means the registration required by this Chapter to operate a Massage Business.

(t) "School of massage" means any school or institution of learning that is recognized as an approved school pursuant to Business and Professions Code Division 2, Chapter 10.5, as currently drafted or as may be amended.

(u) "Sole proprietorship" means and includes any legal form of business organization where the business owner (sometimes referred to as the "sole proprietor") is the only person employed by that business to provide Massage services.

(v) "Solicit" means to request, ask, demand or otherwise arrange for the provision of services.

4.40.030 CAMTC CERTIFICATION AND LOCAL REGISTRATION REQUIRED

(a) Individuals. On and after the effective date of this Ordinance, it shall be unlawful for any individual to practice Massage Therapy for compensation as a Sole Proprietorship or employee of a massage business or in any other capacity within the City unless that individual is a Certified Massage Practitioner.

(b) Businesses. On and after the effective date of this Ordinance, it shall be unlawful for any business to provide Massage for compensation within the City unless all individuals employed by the Massage Business to perform Massage, whether as an employee, independent contractor, or sole proprietorship, are Certified Massage Practitioners and said business has obtained a valid City Registration Certificate as provided in this Chapter.

4.40.040 MASSAGE BUSINESS REGISTRATION

(a) Application. The registration application for a City Registration Certificate shall include all of the following:

- (1) Legal name of the massage business.
- (2) Address and telephone number of the massage business.
- (3) Legal names of all owners of the massage business.
- (4) A list of all of the massage business's employees and independent contractors who are performing massage and their CAMTC certification.
- (5) Residence address and telephone number of all owners of the massage business.

(6) Business address and telephone number of all owners of the massage business.

(7) The form of business under which the massage business will be operating (i.e., corporation, general or limited partnership, limited liability company, or other form).

(8) Each owner or operator of the massage business who is not a CAMTC-Certified Massage Practitioner shall submit an application for a background check, including the following: the individual's business, occupation, and employment history for the five (5) years preceding the date of the application; the inclusive dates of such employment history; the name and address of any Massage Business or similar business owned or operated by the individual whether inside or outside the County of San Mateo and its incorporated cities.

(9) For all owners, a valid and current driver's license and/or identification issued by a state or federal governmental agency or other photographic identification bearing a bona fide seal by a foreign government.

(10) For all owners, a signed statement that all of the information contained in the application is true and correct under penalty of perjury; that all owners shall be responsible for the conduct of the business's employees or independent contractors providing massage services; and acknowledging that failure to comply with the California Business and Professions Code sections 4600 *et seq.*, any local, state, or federal law, or the provisions of this Chapter may result in revocation of the business's City Registration Certificate.

(b) Issuance. Upon provision by the massage business of the foregoing documentation, the Certification Officer shall issue the massage business a City Registration Certificate, which shall be valid for two (2) years from the date of issuance. No reapplication will be accepted within one (1) year after an application or renewal is denied or a certificate is revoked. City Registration Certificates may not be issued to a Massage Business seeking to operate at a particular location if:

(1) another Massage Business is or was operating at that particular location and that Massage Business is currently serving a suspension or

revocation pursuant to Section 4.40.110, during the pendency of the suspension or one year following revocation;

(2) another Massage Business is or was operating at that particular location and that Massage Business has received a Notice of Suspension, Revocation or fine issued pursuant to Sections 4.40.100 and 4.40.110, during the ten day period following receipt of the Notice or while any appeal of a suspension, revocation or fine is pending.

(3) another Massage Business is or was operating at that particular location and that Massage Business has outstanding fines issued pursuant to Section 4.40.100 that have not been paid.

(c) Amendment. A massage business shall apply to the City to amend its City Registration Certificate within thirty (30) days after any change in the registration information, including, but not limited to, the hiring or termination of certified massage practitioners, the change of the business's address, or changes in the owner's addresses and/or telephone numbers.

(d) Renewal. A massage business shall apply to the City to renew its City Registration Certificate at least thirty (30) days prior to the expiration of said City Registration Certificate. If an application for renewal of a City Registration Certificate and all required information is not timely received and the certificate expires, no right or privilege to provide massage shall exist.

(e) Fees. There shall be no fee for the registration application or certificate, or any amendment or renewal thereof. The provisions of this section shall not prevent the City from establishing fees for safety inspections as may be conducted from time to time, and for the background checks, fingerprinting, and subsequent arrest notification for owners of a Massage Business who are not CAMTC-certified and who are subject to such background checks pursuant to this Chapter. There are certain fees for appeals as described below.

(f) Transfer. A City Registration Certificate shall not be transferred except with the prior written approval of the Certification Officer. A written request for such transfer shall contain the same information for the new ownership as is required for applications for registration pursuant to this section. In the event of denial, notification of the denial

and reasons therefore shall be provided in writing and shall be provided to the applicant by personal delivery or by registered or certified mail. A City Registration Certificate may not be transferred during any period of suspension or one year following revocation pursuant to Section 4.40.110, during the ten day period following a Massage Businesses' receipt of a Notice of Suspension, Revocation or fine issued pursuant to Sections 4.40.100 and 4.40.110 or while any appeal of a suspension, revocation or fine is pending. Further, a City Registration Certificate may not be transferred until all outstanding fines issued pursuant to Section 4.40.100 have been paid.

4.40.050 OPERATING REQUIREMENTS.

On or after the effective date of this Ordinance, no person shall engage in, conduct, carry on, or permit any Massage within the City unless all of the following requirements are met:

(a) CAMTC-certification shall be worn by and clearly visible on the Massage Practitioner's person during working hours and at all times when the Massage Practitioner is inside a massage business or providing outcall massage.

(b) Massage shall be provided or given only between the hours of 7:00 a.m. and 9:00 p.m. No massage business shall be open and no massage shall be provided between 9:00 p.m. and 7:00 a.m. A massage commenced prior to 9:00 p.m. shall nevertheless terminate at 9:00 p.m., and, in the case of a massage business, all clients shall exit the premises at that time. It is the obligation of the massage business, to inform clients of the requirement that services must cease at 9:00 p.m.

(c) A list of the services available and the cost of such services shall be posted in the reception area within the massage premises, and shall be described in readily understandable language. Outcall service providers shall provide such a list to clients in advance of performing any service. No owner, manager, operator, or responsible managing employee shall permit, and no massage practitioner shall offer or perform, any service other than those posted or listed as required herein, nor shall an operator or a massage practitioner request or charge a fee for any service other than those on the list of services available and posted in the reception area or provided to the client in advance of any outcall services.

(d) A copy of the CAMTC certificate of each and every Massage Practitioner employed in the business shall be displayed in the reception area or similar open public place on the premises. CAMTC certificates of former employees and/or contractors shall be removed as soon as those massage practitioners are no longer employed by or offering services through the massage business.

(e) For each Massage service provided, every massage business shall keep a complete and legible written record of the following information: the date and hour that service was provided; the service received; the name or initials of the employee entering the information; and the name of the Massage Practitioner administering the service. Such records shall be open to inspection and copying by police officers, or other City officials charged with enforcement of this chapter. These records may not be used by any Massage Practitioner or operator for any purpose other than as records of service provided and may not be provided to other parties by the Massage Practitioner or operator unless otherwise required by law. Such records shall be retained on the premises of the massage business for a period of two (2) years and be immediately available for inspection during business hours.

(f) Massage businesses shall at all times be equipped with an adequate supply of clean sanitary towels, coverings, and linens. Clean towels, coverings, and linens shall be stored in enclosed cabinets. Towels and linens shall not be used on more than one (1) client, unless they have first been laundered and disinfected. Disposable towels and coverings shall not be used on more than one (1) client. Soiled linens and paper towels shall be deposited in separate, approved receptacles.

(g) Wet and dry heat rooms, steam or vapor rooms or cabinets, toilet rooms, shower and bath rooms, tanning booths, whirlpool baths and pools shall be thoroughly cleaned and disinfected as needed, and at least once each day the premises are open, with a disinfectant approved by the Health Officer. Bathtubs shall be thoroughly cleaned after each use with a disinfectant approved by the Health Officer. All walls, ceilings, floors, and other physical facilities for the business must be in good repair, and maintained in a clean and sanitary condition.

(h) Instruments utilized in performing massage shall not be used on more than one (1) client unless they have been sterilized, using approved sterilization methods.

(i) All massage business operators and their employees, including Massage Practitioners, shall wear clean, non-transparent outer garments. Said garments shall not expose their genitals, pubic areas, buttocks, or chest, and shall not be worn in such manner as to expose the genitals, pubic areas, buttocks, or chest. For the purposes of this section, outer-garments means a garment worn over other garments and does not include garments like underwear, bras, lingerie or swimsuits.

(j) No person shall enter, be, or remain in any part of a massage business while in possession of an open container of alcohol, or consuming or using any alcoholic beverage or drugs except pursuant to a prescription for such drugs. The owner, operator, responsible managing employee, or manager shall not permit any such person to enter or remain upon such premises.

(k) No massage business shall operate as a school of massage, or use the same facilities as that of a school of massage.

(l) No massage business shall place, publish or distribute, or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective clients that any service is available other than those services listed as an available service pursuant to section 4.40.050(c), nor shall any massage business employ language in the text of such advertising that would reasonably suggest to a prospective client that any service is available other than those services as described in compliance with the provisions of this chapter.

(m) No massage shall be given unless the client's genitals are, at all times, fully covered. A Massage Practitioner shall not, in the course of administering any massage, make physical contact with the genitals, female breasts, or buttocks of any other person regardless whether the contact is over or under the persons clothing.

(n) Where the business has staff available to assure security for clients and massage staff are behind closed doors, the entry to the reception area of the massage business shall remain unlocked during business hours when the business is open for business or when clients are present.

(o) No massage business located in a building or structure with exterior windows fronting a public street, highway, walkway, or parking area shall, during business hours, block visibility into the interior reception and waiting area through the use of curtains,

closed blinds, tints, or any other material that obstructs, blurs, or unreasonably darkens the view into the premises. For the purpose of this sub-section, there is an irrebuttable presumption that the visibility is impermissibly blocked if more than 10 percent of the interior reception and waiting area is not visible from the exterior window.

(p) All signs shall be in conformance with the current ordinances of the City.

(q) Minimum lighting consisting of at least one (1) artificial light of not less than forty (40) watts shall be provided and shall be operating in each room or enclosure where massage services are being performed on clients, and in all areas where clients are present.

(r) Ventilation shall be provided in accordance with applicable building codes and regulations.

(s) Hot and cold running water shall be provided at all times.

(t) Adequate dressing, locker and toilet facilities shall be provided for clients.

(u) A minimum of one (1) wash basin for employees shall be provided at all times. The basin shall be located within or as close as practicable to the area devoted to performing of massage services. Sanitary towels shall also be provided at each basin.

(v) Pads used on massage tables shall be covered with material acceptable to the Health Officer.

(w) All massage businesses shall comply with all state and federal laws and regulations for handicapped clients.

(x) A Massage Practitioner shall operate only under the name specified in his or her CAMTC certificate. A massage business shall operate only under the name specified in its City Registration Certificate.

(y) No massage business shall allow any person to reside within the massage business or in attached structures owned, leased or controlled by the massage business.

(z) Other than custodial or maintenance staff, no persons shall be permitted within the premises of a massage business between the hours of 11:00 p.m. and 6:00 a.m.

4.40.060 INSPECTION BY OFFICIALS.

The investigating and enforcing officials of the City, including but not limited to representatives of the Police Department, County Health Officer, Community Development Director, and Building Official, or their designees, shall have the right to enter the premises from time to time during regular business hours for the purpose of making reasonable inspections to observe and enforce compliance with building, fire, electrical, plumbing or health regulations, and to enforce compliance with applicable regulations, laws, and statutes, and with the provisions of this chapter. The Building Division may charge a fee for any safety inspections.

4.40.070 NOTIFICATIONS.

(a) A massage business shall notify the Certification Officer, or his or her designee, of any changes described in Section 4.40.040 pursuant to the timelines specified therein.

(b) A registrant shall report to the Certification Officer any of the following within 96 hours of the occurrence:

(1) arrests of any employees or owners of the registrant's massage business for an offense other than a misdemeanor traffic offense;

(2) resignations, terminations, or transfers of practitioners employed by the registrant's massage business;

(3) any event involving the registrant's massage business or the massage practitioners employed therein that constitutes a violation of this ordinance or state or federal law.

c) This provision requires reporting to the Certification Officer even if the massage business believes that the Certification Officer has or will receive the information from another source.

4.40.080 EXEMPTIONS.

(a) The provisions of this chapter shall not apply to the following classes of individuals or businesses while engaged in the performance of their duties:

(1) Physicians, surgeons, chiropractors, osteopaths, nurses or any physical therapists who are duly licensed to practice their respective professions in the State of California and persons working directly under the supervision of or at the direction of such licensed persons, working at the same location as the licensed person, and administering massage services subject to review or oversight by the licensed person.

(2) Barbers and beauticians who are duly licensed under the laws of the State of California while engaging in practices within the scope of their licenses, except that this provision shall apply solely to the massaging of the neck, face and/or scalp, hands or feet of the clients.

(3) Hospitals, nursing homes, mental health facilities, or any other health facilities duly licensed by the State of California, and employees of these licensed institutions, while acting within the scope of their employment.

(4) Accredited high schools, junior colleges, and colleges or universities whose coaches and trainers are acting within the scope of their employment.

(5) Trainers of amateur, semi-professional or professional athletes or athletic teams while engaging in their training responsibilities for and with athletes; and trainers working in conjunction with a specific athletic event.

(6) Individuals administering massages or health treatment involving massage to persons participating in single-occurrence athletic, recreational or festival events, such as health fairs, road races, track meets, triathlons and other similar events; provided, that all of the following conditions are satisfied:

(A) The massage services are made equally available to all participants in the event;

(B) The event is open to participation by the general public or a significant segment of the public such as employees of sponsoring or participating corporations;

(C) The massage services are provided at the site of the event and either during, immediately preceding or immediately following the event;

(D) The sponsors of the event have been advised of and have approved the provisions of massage services;

(E) The persons providing the massage services are not the primary sponsors of the event.

4.40.090 VIOLATION; PENALTIES; UNLAWFUL BUSINESS PRACTICES MAY BE ENJOINED; REMEDIES CUMULATIVE.

Unless otherwise exempted by the provisions of this Chapter, every person, whether acting as an individual, owner, employee or agent of the owner, or operator who gives massages or conducts a massage business in violation of this Chapter shall be guilty of a misdemeanor. The City Attorney may reduce the penalty to an infraction.

Any massage business operated, conducted, or maintained contrary to the provisions of this chapter shall constitute an unlawful business practice pursuant to Business & Professions Code Section 17200 *et seq.*, and the City Attorney or District Attorney may, in the exercise of discretion, in addition to or in lieu of taking any other action permitted by this chapter, commence an action or actions, proceeding or proceedings in the Superior Court of San Mateo County, seeking an injunction prohibiting the unlawful business practice and/or any other remedy available at law, including but not limited to fines, attorneys' fees and costs. All remedies provided for in this chapter are cumulative.

4.40.100 ADMINISTRATIVE FINES.

(a) Violations. Upon a finding by the Chief of Police that a business has violated any provision of this chapter, the Chief of Police may issue an administrative fine of up to five hundred dollars (\$500).

(b) Separate Violations. Each violation of any provision of this Chapter shall constitute a separate violation. Each client to whom massage is provided or offered in violation of this chapter shall also constitute a separate violation. Each day upon which a massage business remains open for business in violation of this chapter shall also constitute a separate violation.

(c) Fine Procedures. Notice of the fine shall be served by certified mail with the legal violation and supporting facts. The notice shall contain an advisement of the right to file an appeal with the License Board contesting the imposition of the fine.

(d) Appeals. Appeals must be requested in writing, and shall provide facts disputing the violation and may be accompanied by declarations and exhibits. Appeals must be addressed to the License Board, and must be received within ten (10) days of the date appearing on the notice of the fine and a copy of the appeal and any supporting materials must be sent to the Chief of Police. The Chief of Police may respond to the appeal in writing within ten (10) days of receipt of the appeal and may provide additional evidence in support of the fine. The License Board may request, in writing, additional evidence from either the Appellant or the Chief of Police. The decision of the License Board shall be based solely on the materials submitted by the Appellant and the Chief of Police and be provided by certified mail. The License Board may sustain the fine, overrule the fine or decrease the amount of the fine. However the total fine shall not be reduced below \$500. The decision will constitute a final administrative order with no additional administrative right of appeal.

(e) Failure to Pay Fine. If said fine is not paid within thirty (30) days from the date appearing on the notice of the fine or of the notice of determination from the License Board after the decision, the fine may be referred to a collection agency within or external to the City. In addition, any outstanding fines must be paid prior to the issuance or renewal of any registration.

4.40.110 SUSPENSION AND REVOCATION OF CITY REGISTRATION CERTIFICATES

(a) Reasons. Certificates of registration may be suspended or revoked by the Chief of Police upon finding any of the following grounds:

(1) A Massage Practitioner is no longer in possession of current and valid CAMTC-certification. This subsection shall apply to a sole proprietor or a person employed or used by a massage business to provide massage.

(2) An owner or sole proprietor: is required to register under the provisions of California Penal Code section 290 (sex offender registration); is convicted of California Penal Code sections 266i (pandering), 315 (keeping or residing in a house of ill-fame), 316 (keeping disorderly house), 318 (prevailing upon person to visit a place for prostitution), 647(b) (engaging in or soliciting prostitution),

653.22 (loitering with intent to commit prostitution), 653.23 (supervision of prostitute); has a business permit or license denied, revoked, restricted, or suspended by any agency, board, city, county, territory, or state; is subject to an injunction for nuisance pursuant to California Penal Code sections 11225-11235 (red light abatement); is convicted of a felony offense involving the sale of a controlled substance; is convicted of any crime involving dishonesty, fraud, deceit, violence, or moral turpitude; or is convicted in any other state of an offense which, if committed in this state, would have been punishable as one or more referenced offenses in this subdivision.

(3) The City determines that a material misrepresentation was included on the application for a certificate of registration or renewal.

(4) Violations of any of the following occurred on the premises of a massage business or were committed by a Massage Practitioner: California Business and Professions Code sections 4600 *et seq.*; any local, state, or federal law; or the provisions of this chapter.

(b) Procedures. Written notice of the suspension or revocation shall be served on the sole proprietor or owners by certified mail with the legal violation and supporting facts. The notice shall contain an advisement of the right to request an appeal hearing before the License Board.

(c) Time Period of Suspension of Permit. The Chief of Police may suspend a registration for a period between five (5) days and the end of the license term, at his or her discretion.

(d) Effective Date of Suspension or Revocation. Suspension or revocation issued pursuant to subsection (b) will be effective ten (10) days from the date appearing on the order, unless a timely appeal is filed in accordance with subsection (e).

(e) Appeal.

(1) The decision of the Chief of Police is appealable to the License Board.

(2) An appeal must be in writing, and be hand-delivered or mailed to the License Board and accompanied by a filing fee of \$1000.

(3) An appeal must be received by the License Board on or before the effective date of suspension or revocation provided by subsection (d).

(4) The filing of a timely appeal will stay a suspension or revocation pending a decision on the appeal by the License Board.

(5) A hearing shall be scheduled before the License Board within thirty (30) days. Either the Appellant or the Police Chief may request, in writing directed to the Chair of the License Board, a continuance of the hearing. Such requests must be supported by good cause. The decision whether to grant a continuance is at the discretion of the Chair of the License Board, who shall consider whether granting the continuance poses a threat to public health or safety in light of the severity of the violations alleged.

(6) The decision of the License Board shall be a final administrative order, with no further administrative right of appeal or reconsideration. The License Board may sustain a suspension or revocation, overrule a suspension or revocation, reduce a revocation to a suspension and/or reduce the length of a suspension. However no revocation or suspension shall be reduced to a length of less than a five day suspension. Further the License Board may stay the effective date of any suspension for a reasonable time following a hearing.

(f) Reapplication. No reapplication will be accepted within one (1) year after a certificate is revoked.

(g) Evidence. The following rules shall apply to any hearing required by this section. All parties involved shall have the right to offer testimonial, documentary, and tangible evidence bearing on the issues, to be represented by counsel, and to confront and cross-examine witnesses. Any relevant evidence may be admitted if it is the sort of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. Formal rules of evidence and discovery do not apply to proceedings governed by this chapter. Unless otherwise specifically prohibited by law, the burden of proof is on the registrant in any hearing or other matter under this chapter.

4.40.120 OUTCALL MESSAGE PROHIBITED

It shall be unlawful for any person to engage in, conduct, or carry on outcall massage services.

4.40.130 PUBLIC NUISANCE

It shall be unlawful and a public nuisance for a massage business to be operated, conducted, or maintained contrary to the provisions of this chapter. The City may exercise its discretion, in addition to or in lieu of prosecuting a criminal action, to commence proceedings for the abatement, removal, and enjoinder of that business in any manner provided by law.

SECTION 4. SEVERABILITY. If any provision(s) of this ordinance is declared invalid by a court of competent jurisdiction, it is the intent of the City Council that such invalid provision(s) be severed from the remaining provisions of the ordinance so that regulation and control of massage may remain in place.

SECTION 5. CEQA. This ordinance is exempt from the provisions of the California Environmental Quality Act because it is not a project and because there is no possibility that the ordinance may have a significant effect on the environment.

SECTION 6. This ordinance shall be effective thirty (30) days from the date of passage thereof.

SECTION 7. The City Clerk shall publish this ordinance according to law.

* * * * *



**City Council Agenda Item
Staff Report**

CITY OF SAN BRUNO

DATE: May 26, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Jimmy Tan, Deputy Public Services Director/City Engineer

SUBJECT: Adopt Resolution Authorizing the City Manager to Execute a Contract with Moffatt & Nichol to Provide Technical Assistance for the FEMA San Francisco Bay Coastal Study in the Amount of \$25,160 and Appropriating Funds in this Amount from the General Fund

BACKGROUND:

The Federal Emergency Management Agency (FEMA) recently completed an engineering study of San Francisco Bay including detailed analyses of coastal hazards as part of the California Coastal Analysis and Mapping Project. The results of the study are summarized in the "Central San Francisco Bay Coastal Flood Hazard Study" prepared in July 2014 which will be used by FEMA to remap the elevation and inland extent of wave induced coastal flood hazards for San Francisco Bay communities including San Bruno. FEMA conducted the study as part of their nationwide Risk Mapping, Assessment, and Planning Program to determine revised Base Flood Elevation, the extent of the Special Flood Hazard Areas for coastal communities, and to update the Flood Insurance Study reports and Flood Insurance Rate Maps.

Outreach to agencies within the San Mateo County were conducted by FEMA as early as July 2014 and a workshop was held on October 2014 to provide the agencies with an overview of the study results. The City was not aware or informed of the study until November 2014 due to the possibility that the City didn't have any floodplain area. FEMA provided information from this analysis to agencies that could be affected with the Draft Flood Insurance Rate Maps for review and to seek comments in December 2014. The results of the study identified potential flood hazard areas in San Bruno where the majority of the affected area is comprised of residential properties located on the west side of Highway 101 and south of Interstate 380.

On January 27, 2015, the City Council awarded a consulting contract to Moffatt & Nichol (M&N) to provide technical assistance for the FEMA Coastal Flood Hazard Study. M&N scope of work included communicating and coordinating with FEMA and their consultant AECOM to obtain technical documents, conduct preliminary analyses to evaluate the source of flooding, and reviewing FEMA base flood elevation and flood mapping methodology. M&N completed the preliminary analyses and provided comments to the City to submit to FEMA on February 14, 2015 to meet the February 16th deadline. On March 27, 2015, a meeting was conducted at the City with representatives from City of San Bruno, FEMA, County of San Mateo, Congresswoman Jackie Speier's Office, and Moffatt & Nichol. The meeting discussed the overall timeline associated with the Flood Insurance Rate Map

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(FIRM) development, source of flooding, clarification of responses from the comments, and FEMA procedures required in order to submit additional information for further review.

DISCUSSION:

Based on the preliminary analyses performed by M&N, three sources of coastal flooding exists within the City. The first source is due to the non-accredited tide-gate at San Bruno Creek where stormwater discharges into San Francisco Bay. The second source is from flooding over the existing levees around San Francisco International Airport (SFO) property due to deficiencies in the airport's perimeter defenses where coastal flood water cross Highway 101 near Millbrae Avenue and then flow north to San Bruno. The third source is the overtopping of the south bank of Navigable Slough in City of South San Francisco due to deficient elevation. The identified flood sources can effectively be mitigated through a process to revise the map but requires a detailed study by FEMA.

FEMA's hydraulic model to analyze the coastal flooding is based on a steady state model which assumed that the flood water is held at a constant elevation of 10.4 feet with infinite duration. Staff is currently interested in developing an additional hydraulic analysis that would provide more realistic detailed information in which time is factored into the results. The new analysis would provide a better understanding of the coastal flooding in the region and would also determine whether the extent of flooding will be reduced within the Belle Air neighborhood compared to FEMA's Draft FIRMs. The results from the technical analysis will situate the City to make an effective appeal to FEMA to support a map amendment if the analysis shows a reduction of the area of inundation in San Bruno, otherwise, property owners within the affected area will be required to purchase flood insurance and the cost may be significant for some.

M&N was requested to provide a proposal to perform the additional hydraulic analysis. The scope of work includes developing a 2D model that includes the flooding sources, preparing a technical memorandum, and providing potential recommendations for mitigations to the City. Upon completion of the technical memorandum, staff will discuss the results and submit an appeal to FEMA to request a change in FIRM if warranted based on the analysis show a difference.

The remaining schedule for the coastal study mapping timeline is as follows:

- February 2013: FEMA initiated the Coastal Analysis Study and Mapping Project (Completed)
- April – September 2014: FEMA generated revised floodplain mapping (Completed)
- October 1, 2014: FEMA met with local agencies to discuss the new maps (Completed)
- December 17, 2014: Deadline for initial commenting period on proposed mapping (Completed)
- June 2015: FEMA to release Preliminary Flood Insurance Rate Maps
- October 2015 – January 2016: 90 day appeal period
- March 2016: Final map determination by FEMA

- September 2016: New Rate Maps effective

Staff discussed with FEMA representative and requested their support for public outreach with impacted property owners resulting from the SF Bay Coastal Study to help answer any questions related to the study and insurance requirements. FEMA mentioned that they will assist with the public outreach after completion of the draft maps.

FISCAL IMPACT:

M&N has provided a proposal for the 2D hydraulic analysis and preparation of the technical memorandum in the amount of \$25,160. Currently, there is no available funding that can be used to cover the cost of this contract and staff is recommending an appropriation of the amount from the General Fund.

ALTERNATIVES:

1. Do not authorize award of this contract and direct staff to renegotiate the scope.
2. Provide alternative direction to staff.

RECOMMENDATION:

Adopt resolution authorizing the City Manager to execute a contract with Moffatt & Nichol to provide technical assistance for the FEMA San Francisco Bay Coastal Study in the amount of \$25,160 and appropriating funds in this amount from the General Fund.

ATTACHMENTS:

1. Resolution
2. Coastal Flood Hazard Mapping Studies FAQ

DISTRIBUTION:

None

DATE PREPARED:

May 4, 2015

REVIEWED BY:

_____ CM

RESOLUTION NO. 2015 - ____

**RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
A CONTRACT WITH MOFFATT & NICHOL TO PROVIDE TECHNICAL ASSISTANCE IN
THE AMOUNT OF \$25,160 AND APPROPRIATING FUNDS IN THE AMOUNT FROM
THE GENERAL FUND**

WHEREAS, the Federal Emergency Management Agency (FEMA) completed an engineering study of San Francisco Bay that included detail analyses of coastal hazards as part of the California Coastal Analysis and Mapping Project; and

WHEREAS, the study was part of FEMA nationwide Risk Mapping, Assessment, and Planning Program to determine revised Base Flood Elevation, the extent of the Special Flood Hazard Areas for coastal communities, and to update the Flood Insurance Study reports and Flood Insurance Rate Maps; and

WHEREAS, On January 27, 2015, the City Council awarded a consulting contract to Moffatt & Nichol to provide technical assistance for the FEMA Coastal Flood Hazard Study; and

WHEREAS, the preliminary analyses was completed by Moffatt & Nichol and draft comments were submitted to FEMA on February 14, 2015 to meet the February 16, 2015 deadline; and

WHEREAS, subsequent detailed hydraulic analysis is required to better understand the extent of the coastal flooding by developing a 2D model in which time is considered and to determine whether the flooding area determined by FEMA can be reduced; and

WHEREAS, Moffatt & Nichol has submitted a proposal to provide the additional technical assistance in developing the 2D model including the preparation of technical memorandum and providing potential recommendations for mitigations to the City; and

WHEREAS, funding is not currently programmed through the FY2014-15 Budgets to cover the cost of this contract; and

NOW, THEREFORE, BE IT RESOLVED that the San Bruno City Council hereby authorizes the City Manager to execute a contract with Moffatt & Nichol to provide technical assistance for the FEMA San Francisco Bay Coastal Study in the amount of \$25,160.

BE IT FURTHER RESOLVED, that funds in this amount be and are hereby appropriated from the General Fund.

Dated: May 26, 2015

ATTEST:

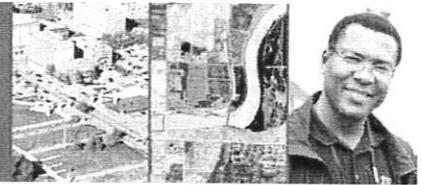
Carol Bonner, City Clerk

I, Carol Bonner, City Clerk, do hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of San Bruno this 26th day of May 2015 by the following vote:

AYES: Councilmembers: _____
NOES: Councilmembers _____
ABSENT: Councilmembers: _____



FEMA



Coastal Flood Hazard Mapping Studies



Analyzing coastal hazards is a high priority for FEMA because of population increases and development density in coastal areas. Advances in data collection and policy changes are also reasons why FEMA is conducting new coastal studies.

Benefits of Coastal Flood Hazard Mapping Studies

- Updated flood hazard data and maps to help coastal communities understand their risk
- Improved risk assessment tools and hazard mitigation planning assistance to help communities reduce their risk
- Compiled data, tools, and resources for coastal outreach and mitigation
- New coastal webpages on FEMA.gov

Additional Resources

FEMA maintains a variety of resources to assist coastal communities and property owners in better understanding their flood risk and taking steps to protect themselves from loss of life and property.

For more information, please visit FEMA's Coastal website: www.FEMA.gov/coastal-flood-risks



For answers to questions about new FIRMs, the status of a request, or other mapping issues:

FEMA Map Information eXchange
1-877-FEMA-MAP
(1-877-336-2627)

FEMA Map Service Center
www.msc.fema.gov

For answers to questions about flood insurance:
The NFIP Call Center
1-888-379-9531

FloodSmart
www.FloodSmart.gov

For general information on FEMA and its programs:
www.FEMA.gov

RiskMAP

Increasing Resilience Together

Why is understanding coastal flood hazards so important?

Eight of the top 10 most expensive natural disasters in our Nation were caused by coastal storms. According to the 2010 census population counts, about 39 percent of the U.S. population live in counties bordering the ocean and Great Lakes coast. Because of coastal development and population increases over the past decades, a greater number of structures are at risk for damage from coastal hazards.

What is FEMA doing to improve risk awareness and resiliency in coastal communities?

FEMA initiated flood hazard studies for the Nation's coastal areas as part of its Risk Mapping, Assessment, and Planning (Risk MAP) effort. In addition to the development of Flood Insurance Rate Maps (FIRMs), Risk MAP projects also offer a Flood Risk Report, Flood Risk Database, and other custom products. The data from these studies will benefit coastal communities by increasing public risk awareness, improving mitigation planning, and encouraging mitigation actions.

Why is FEMA conducting new coastal flood hazard studies?

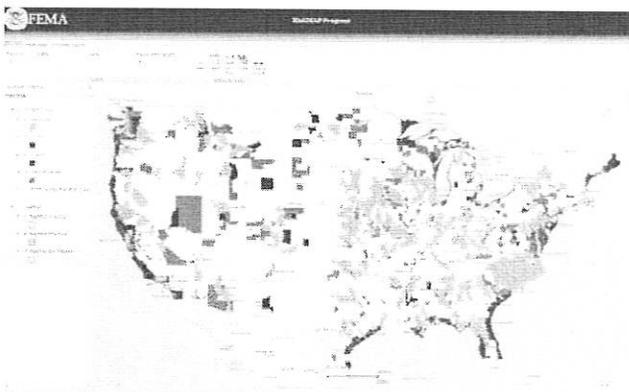
FIRMs in many coastal areas are outdated due to the age of the data and methodologies used in producing the effective FIRMs. Some of the data and methodologies date back to the mid-to-late 1970s. Major changes in the National Flood Insurance Program have also occurred since the effective date of many coastal studies, creating the need for updates to reflect more detailed and complete hazard information.

What are preliminary Flood Insurance Rate Maps (FIRMs)?

Preliminary FIRMs provide information regarding changes in coastal flood hazards, while offering communities an opportunity to submit feedback and/or additional data before the maps become effective. The majority of the preliminary coastal FIRMs will be released in FY13, FY14, and FY15 (October 2012 through September 2015).

Where can I find out the progress of my community's coastal hazard mapping study?

The Risk MAP Progress website (accessible through FEMA's [Risk MAP webpage](#)) offers an interactive map that allows users to zoom in, locate their community, and click to learn about the project status (i.e. time frame for their preliminary and effective maps). The data shown within the Risk MAP Progress website is updated each quarter of the fiscal year.



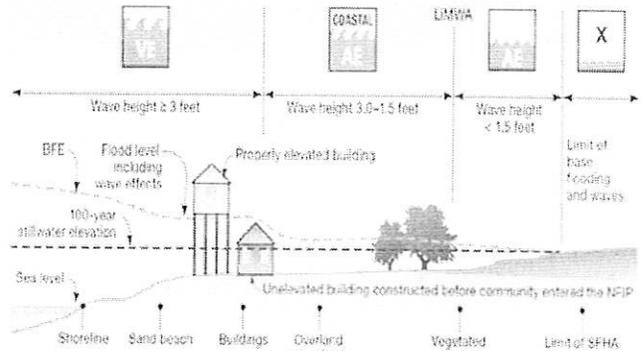
Risk Map Progress Website Screenshot

How does FEMA determine the coastal flood risk for communities?

FEMA works with scientists and engineers from other Federal agencies, State, regional, community, Tribal, non-profit, nongovernmental, contractors, and private-sector partners to analyze flood hazards for coastal communities using the latest scientific methodologies. By building on existing data and working with local community officials to produce new data and hazard mitigation tools, FEMA's updated coastal maps will provide communities with more accurate FIRMs, risk assessment tools, and outreach support.

What determines each community's flood insurance rates and other requirements?

The effective FIRMs for each community drives flood insurance requirements, flood insurance premiums, and the requirements for new and improved buildings.



Coastal Zones Graphic

The graphic above shows FEMA's identification of coastal flood hazard zones and how Base Flood Elevations (BFEs) are affected by wave heights. Areas in Zone VE (also known as the Coastal High Hazard Area) are likely to have flooding with waves that are three feet or greater. Areas in Zone AE will have waves less than three feet in height. Within Zone AE, the Limit of Moderate Wave Action (LiMWA) identifies an area where higher building standards are encouraged to promote safe development. Communities that adopt the LiMWA as a higher standard may earn flood insurance rate discounts.

Flood zones and BFEs are used to determine flood insurance costs and building requirements along the coasts. NFIP participating communities within the Special Flood Hazard Area (SFHA), which includes Zones VE and AE, must follow NFIP floodplain management regulations and property owners may be required to purchase flood insurance by their mortgage lender.

FEMA provides coastal construction technical guidance for those who wish to build stronger and safer, and possibly reduce their insurance premium. In an effort to reduce losses of life and property along the U.S. coasts, these updated coastal flood hazard studies will benefit communities by offering updated flood maps, data, and hazard mitigation tools.

RiskMAP
Increasing Resilience Together



City Council Agenda Item Staff Report

CITY OF SAN BRUNO

DATE: May 26, 2015

TO: Honorable Mayor and Members of the City Council

FROM: Connie Jackson, City Manager
Marc Zafferano, City Attorney

SUBJECT: Authorize the City Manager to Enter Into a Second Exclusive Negotiating Rights Agreement with OTO Development, LLC

BACKGROUND

On October 12, 2012, the City issued a Request for Qualifications/Proposals inviting written proposals from qualified developers to design, finance and build a high-quality, select-service hotel at the Crossing. Following an extensive selection process, the City Council unanimously selected OTO Development, LLC on February 26, 2013, and authorized the City Manager to enter into an Exclusive Negotiating Rights Agreement (ENRA) with OTO.

For the next several months the parties worked together to draft and finalize an ENRA, and on August 20, 2013, the parties executed an ENRA consistent with the City Council's direction. The Agreement contained several performance milestones for both parties, which included performing a detailed financial analysis of the project, conducting an extensive site investigation that included geotechnical and soils analysis as well as Phase 1 and Phase 2 environmental testing, and obtaining approval from the selected hotel franchise (Marriott). All of these milestones have been achieved.

Other milestones in the Agreement have been more challenging to complete, despite the diligence of all parties involved. Before a select-service hotel can be built on the site, the City's Specific Plan must be amended, and that action requires environmental review, which turned out to be substantially more complex than initially anticipated. The environmental impact report (EIR) has now been completed and will be distributed for the 45-day state-mandated public review and comment period. The Planning Commission is then scheduled to consider the EIR and the Specific Plan Amendment (SPA), and make a recommendation to the City Council in August. The SPA will also require introduction and adoption of an ordinance by the City Council. Once those actions have been taken, the City Council can consider a final Development and Disposition Agreement (DDA) by which the City would sell the property to OTO, specifying the standards for development of the hotel project, including the amount of any necessary City financial participation in the project.

During the exclusive negotiation period specified in the ENRA, the City's independent expert evaluated the project, and found that a high-quality select-service hotel would not be economically feasible to construct without some public assistance for several reasons. The lot is relatively small, restricting the number of rooms that can be built and the overall revenue to the

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hotel operator. The size of the lot also necessitates construction of an underground parking garage at a cost of approximately \$5 million to meet the City's parking requirement for the project, thus increasing construction costs substantially. The City's priority for the hotel to provide 3,000 square feet of community meeting and event space also results in fewer rooms and less potential revenue. If the City were to provide more than nominal financial assistance to the developer, prevailing wages are required, thus further increasing the construction costs.

In all, the City's expert estimated that City financial participation of approximately \$3.896 million would be required to make the project economically feasible for the developer. The financial analysis revealed that hotel developers seeking to obtain a reasonable rate of return on their investment would not construct a hotel at this site, given the small lot, expensive underground parking, and larger meeting and event space requested by the City.

The City's expert also calculated that the project would generate several hundred construction jobs as well as about two dozen permanent jobs once the hotel is operational. In addition, the City would receive over \$800,000 in new net annual revenue to the City, including transient occupancy tax, property tax, and sales tax. Accordingly, if the City were to participate financially in the project at the proposed level of approximately \$3.896 million, it would recoup its investment in fewer than five years from the start of hotel operations.

The original ENRA signed by the parties expired by its own terms last November, and the parties mutually determined not to immediately renew it. In the meantime, both parties diligently pursued completion of the EIR for the SPA, and OTO submitted preliminary plans for the hotel, which staff has been working to review. Because the City's financial analysis of the hotel was not completed until after the original ENRA was signed, it did not include the anticipated estimated financial terms of the City's participation. It would be customary at this point in the process for the City to memorialize these terms in a written document that would become the basis for negotiation and drafting of the future DDA.

DISCUSSION:

While there are several possible mechanisms available to the parties to formalize their continuing negotiations, such as a letter of intent or a non-binding term sheet reflecting the proposed financial terms of the City's financial participation, staff recommends that the City Council consider a second agreement to negotiate exclusively. This document would build on the original ENRA by providing certainty to OTO that the City intends to continue its progress to evaluate the SPA and then the hotel project. It would specify in more detail the development concept (Marriott Springhill Suites or equivalent) and the conditions precedent to closing escrow for the City's transfer of the land to OTO. The City would propose the anticipated details of its financial participation, which would be subject to reduction if the hotel's construction costs are lower or the hotel's financial performance is better than estimated. OTO would provide construction cost documentation once the project is completed as well as the actual hotel revenue and occupancy, so the City can be assured that it is providing no more assistance than absolutely necessary to ensure that the hotel is built. Before the City Council approves a DDA that contemplates City financial assistance, state law requires a formal public hearing and report that outlines the economic costs to the City as well as the expected economic benefits of the project.

In terms of financial participation, the parties currently contemplate that the City would provide financial assistance in the total amount of approximately \$3.896 million as follows: 1) transfer the property that the City purchased for \$1.4 million to OTO for \$1; 2) waive or pay on OTO's behalf various building and other permit fees totaling approximately \$650,000; and 3) provide a period of approximately two years after the hotel opens during which transient occupancy taxes generated by the hotel, approximately \$1.8 million, would be reimbursed by the City to OTO. The actual period of the tax "holiday" could be adjusted once the actual construction costs and gross revenue from operations are known.

Because the parties expect that the SPA and the hotel project, along with all of the associated required actions and DDA, would be scheduled for City Council review by October 2015, the new ENRA would expire at the end of this calendar year, but could be extended if necessary.

FISCAL IMPACT

OTO has provided a deposit consistent with a Reimbursement Agreement in favor of the City to cover the City's anticipated costs associated with the processing of its hotel project, and the negotiation and execution of the new ENRA.

ALTERNATIVES

1. Provide staff with alternative direction to formalize its continuing negotiations with OTO.

RECOMMENDATION

Authorize the City Manager to enter into a second Exclusive Rights Negotiating Agreement with OTO Development, LLC.

ATTACHMENTS:

None.

DATE PREPARED

May 21, 2015