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From: Alicia L. Amaro <aamaro@fentonkeller.com>
Sent: Wednesday, April 16, 2025 2:01 PM
To: City Council
Cc: Clarke, Joe; Pedersen, Alexander; Gerry Jensen; Margaux Morgan; Melinda Orbach; Gautho, Julia; Herlihy, Katie (kherlihy@ci.capitola.ca.us); Goldstein, Jamie (jgoldstein@ci.capitola.ca.us); Kahn, Jessica; Mozumder, Kailash; Derric G. Oliver
Subject: [PDF] Letter to Capitola City Council (4-16-25) Morrissey Public Comments on Agenda Items 3(A) & 3(B) (Measure L)
Attachments: LTT Capitola City Council 4-16-25 Morrissey Public Comments on Agenda Items A B (Measure L) (01729963).pdf

Good afternoon,

Please see the attached letter, providing public comments from Mike and Meghan Morrissey, on agenda items 3(A) & 3(B) (Measure L) of the City Council's meeting on April 17, 2025.

Thank you,

Alicia L. Amaro

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April 16, 2025

VIA EMAIL ONLY (citycouncil@ci.capitola.ca.us)

Capitola City Council
Capitola City Hall
420 Capitola Avenue
Capitola, CA 95010

Re: Public comments on Agenda Items 3(A) & 3(B) (Measure L)
Capitola City Council meeting 4-17-25
Our File: 35278.34203

Dear Capitola City Councilmembers:

This law office represents Capitola property owners and residents, Michael and Meghan Morrissey, in connection with the above-referenced subject. This letter offers the Morrisseys' position regarding Agenda Item 3(A), Measure L, and Agenda Item 3(B), regarding a proposed relocation of Segments 10 and 11 of the Monterey Bay Sanctuary Scenic Trail (aka Coastal Rail Trail) ("Trail") off the Santa Cruz Line Branch Line Rail Corridor ("Corridor") in violation of Measure L, codified as Capitola Municipal Code ("CMC") Chapter 8.72, entitled "Greenway Capitola Corridor."

1. Agenda Item 3(A): Measure L

Measure L was passed in 2018 pursuant to the initiative power reserved by the People in the California Constitution. As such, the City Council cannot amend or repeal Measure L, absent further voter initiative to do so. (Cal. Const., art. II, § 10, subd. (c).) A statute, once duly enacted, is presumed to be constitutional, and if challenged, unconstitutionality must be clearly shown, with doubts resolved in favor of the statute's validity. (*Lockyer v. City & County of San Francisco* (2004) 33 Cal.4th 1055, 1084.) This is particularly so in the case of statutes passed through voter initiatives, which the courts "jealously guard" and liberally construe so as not to improperly annul the will of the voters. (*California Cannabis Coalition v. City of Upland* (2017) 3 Cal.5th 924, 934.)

{DGO-01729595;2}

It is the courts, not this City Council, who have the authority to determine the validity and enforceability of Measure L. (See, *Perry v. Brown* (2011) 52 Cal.4th 1116.) The City had the opportunity to challenge the validity of Measure L after its passage. The City did not do so, nor has Measure L unlawfully invaded the province of the City Council's jurisdiction or essential functions.

While City Staff has correctly acknowledged the validity and enforceability of Measure L in their staff reports, City Staff has misinterpreted the plain and unambiguous language and express purpose of Measure L in several important respects. As outlined in my February 12, 2025 letter to the City Council, contrary to previous City Staff assertions, Measure L establishes directives and limitations, as opposed to abstract "goals," which clearly and plainly require the City to keep the Trail on the Corridor, and refrain from using City funds and resources (including bike lane easements, dedications of land, staff time, attorney time, etc.) to allow the contrary. City Staff, in relying on a dictionary definition of the word "detour," have ignored the statutory context in which the term "detour" is required to be interpreted, which makes clear that any planned, temporary, or permanent diversion of the Trail through City streets is considered a "detour" from the Corridor and expressly prohibited by Measure L.

Measure L is not "vague" or unclear, let alone unconstitutionally so. It provides more than adequate notice of required and prohibited conduct, as the City is well aware of, given its compliance with it for the past six, almost seven, years. Any challenge to Measure L's validity would assuredly fail, as its opponents would be hard-pressed to meet the exacting tests applied by the Courts for such claims. As such, the Morrisseys urge and demand you to direct City Staff to interpret the Measure L consistent with its plain terms, and to conform your votes to its directives and the will of the voters.

2. Agenda Item 3(B): Park Lane Avenue Realignment

The Morrisseys object to the realignment of the Trail on Park Avenue because it violates Measure L. Both Option A and Option B relocate/detour the Trail onto Capitola streets in direct contravention of Measure L's operational provisions prohibiting such diversion. Additionally, both Option A and Option B will require the City to spend funds and resources to support the detouring of the Trail into City streets. While the Staff Report notes there is no "immediate cost" to the City, the City will still have to grant easements and potentially land dedications to allow City-owned streets to be utilized by the RTC and County, in violation of the prohibition of spending "resources" in support of a detour. Further, the Staff Report makes clear the City will be obligated to commit \$16,000 to \$22,000 annually to maintain this detour. This is a plain violation of Measure L and the City Council cannot approve it without violation Measure L.

In contrast, a reexamination of prior plans to maintain the Trail within the Corridor is not only feasible, but appropriately honors both the law and the will of the people. The Morrisseys urge you to vote against both Options A and B, and return to the reexamination of plans which keep the Trail within the Corridor.

3. Conclusion

The Morrisseys and the voters who enacted Measure L demand and expect the City to fully comply with its limits, the express “purpose” of which is to “keep” the Trail “in” the Corridor “to improve safety and reduce traffic.” (CMC § 8.72.010.) They expect you to honor its provisions that Measure L “shall not be amended or repealed except by vote of the people.” (CMC § 8.72.050.) Thank you in advance for your review and consideration of the Morrisseys’ public comments on this item of great importance to the safety, welfare, traffic, parking, and aesthetics of their great City.

Very truly yours,
FENTON & KELLER
A Professional Corporation



Derric G. Oliver

DGO:rjs

cc:

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