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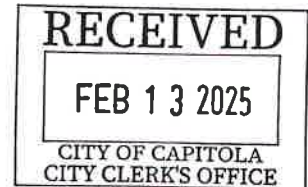
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February 12, 2025

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 Item 9c (Measure L)
Capitola City Council meeting 2-13-25
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' objections to City Staff's Agenda Report for Agenda Item 9c, advocating for 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."

In the Staff Report, City Staff correctly acknowledges the validity and enforceability of Measure L, which was duly and overwhelmingly passed by City voters in 2018. However, City Staff misinterpret the plain and unambiguous language and express purpose of Measure L in several important respects:

1. In the Staff Report (page 5; agenda packet page 296), City Staff erroneously refer to the "goals" of Measure L. However, Measure L contains no "goals." Rather, Measure L expressly imposes limits on the Trail, including by providing that the "purpose" of Measure L is "keeping" the Trail exclusively on the Corridor. (CMC § 8.72.010.)

{DGO-01696691;3}

2. City Staff indicates, on page 6 of the Staff Report (agenda packet page 297), “There are no City funds being invested in the project.” This ignores that City funds have been, and are continuing to be, expended on paid City Staff time (and, presumably, other expenditures of “funds or resources,” such as on attorneys’ fees, consultants’ fees, office space, materials, etc.) to coordinate, consider, publicly support and advocate for (including in the Staff Report; i.e., “marketing”) a project (“detouring” or “shifting” a portion of the Trail outside the Corridor) that would violate Measure L if constructed. Such expenditures of City funds, in and of themselves, violate Measure L. (CMC § 8.72.040.) This proposed detour of the Trail off the Corridor would presumably require expenditure of additional City “funds or resources,” as prohibited by Measure L, in the form of City grants of City-owned land (e.g., easements, dedications) to facilitate the proposed detour of the Trail off the Corridor.

3. City Staff erroneously contends the proposed rerouting of the Trail onto non-Corridor land (i.e., Park Avenue) does not “implicate” Measure L because the relocation is not a “detour” as that term is defined in the dictionary. City Staff’s reliance on the dictionary definition of “detour” is a red herring and runs afoul of the first rule of statutory construction to look no further than, and give effect to, the plain meaning of a statute’s clear and unambiguous language. (*Lake Lindero Homeowners Assn., Inc. v. Barone* (2023) 89 Cal.App.5th 834, 848.) As such, based on the plain and unambiguous language of Measure L, any expenditure of City funds or resources relating to the proposed relocation of the Trail off the Corridor (e.g., onto a portion of Park Avenue) violates the express purpose of Measure L: “to improve safety and reduce traffic by keeping the [Trail] in the [Corridor].” (CMC § 8.72.040; emphases added.)

4. City Staff erroneously states that the relocation/detour (as proposed by Option A and Option B) “do not propose the construction of the Trail on Capitola’s streets or sidewalks,” as the proposed detour, post-construction, would be partially located on a portion of Park Avenue (i.e., a City street) proposed to be eliminated. This rear-view mirror argument is fundamentally flawed. Again, the fact that the proposed detour would result in the loss of a portion of Park Avenue conflicts with the express terms of Measure L.

5. City Staff’s reliance on the purported/perceived benefits of detouring the Trail off the Corridor, and/or the purported/perceived drawbacks of not doing so, provide no legal justification for violating Measure L. Indeed, Measure L contains no provisions allowing for consideration or balancing of any such benefits or drawbacks of complying with its plain terms.

In conclusion, the Morrisseys—consistent with the City’s citizens’ overwhelming approval of Measure L—demand and expect the City to fully comply with all limits set forth in Measure L, the express “purpose” of which is to “keep” the Trail “in” the Corridor “to improve safety and reduce traffic.” (CMC § 8.72.010.) Indeed, Measure L “shall not be amended or repealed except by vote of the people.” (CMC § 8.72.050.)

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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
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