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original staff report

Th19c

Prepared May 13, 2015 for May 14, 2015 Hearing

To: Commissioners and Interested Persons

From: Nancy Cave, District Manager
Stephanie Rexing, Coastal Planner

**Subject: STAFF REPORT ADDENDUM for Th19c
City of Half Moon Bay Amendment Number LCP-2-HMB-14-0845-2**

In the time since the staff report was distributed, it has come to the City's attention that their initial submittal for the above-referenced Land Use and Implementation Plan (LUP and IP) amendments contained an inadvertent error. In order to clarify the submittal, Half Moon Bay City Attorney, Tony Condotti states in a letter dated May 8, 2015 that the City actually took two actions regarding ballot measures protecting the Main Street Bridge: a June 17, 2014 City Council action on an ordinance to adopt the Main Street Bridge Preservation Act, and a September 24, 2014 Planning Commission action on a resolution that identified proposed LUP and IP amendment text that differed slightly from both the initiative text and the previously adopted City Council ordinance. According to Mr. Condotti's recent letter, the City's initial LCP amendment submittal to the Coastal Commission erroneously included the Planning Commission resolution, and not the City Council ordinance. The May 8, 2015 letter asks that the Coastal Commission certify the LUP and IP amendments exactly as written in the City Council ordinance of June 17, 2014 (and attaches the corrected City Council Ordinance for this purpose (see **Exhibit 1**)), rather than certify the September 24, 2014 Planning Commission action that was originally submitted in error.

The intent of the distributed staff report's (dated prepared May 1, 2015) suggested modifications were to reconcile the City's then submitted proposed LUP and IP amendment text with the text of the citizen-sponsored initiative that was passed by the City of Half Moon Bay electorate on June 3, 2014 (because the Planning Commission version originally submitted by the City did not do this). The City now informs staff that the *City Council ordinance* is what they intended to propose, and thus these modifications are no longer necessary or accurate. Thus, the purpose of this addendum is to modify the staff recommendation for the above-referenced item and to correct the submittal to reflect what the City actually *meant* to submit for Coastal Commission certification. These staff report changes do not alter the staff recommendation, which was to modify the City's original submittal to reconcile the LUP and IP amendment text with the text of citizen-sponsored initiative, which is the same as what the City now indicates it proposes now. The proposed LCP text still needs to be slightly modified to address internal LCP cross-reference issues, and thus the submittal still requires suggested modifications. Thus, the staff report is

modified as shown below (where applicable, text in underline format indicates text to be added to reflect the corrected City submittal, and text in ~~striketrough~~ format indicates text to be deleted).

Changes to the Staff Recommendation

1. Delete language from the “Summary of Staff Recommendation” on staff report page 1 which refers to modifications that are necessary to reconcile the amendment text with the citizen-sponsored initiative.
2. Delete **Suggested Modification #1** on staff report page 5 (because the City’s corrected submittal matches the LUP text proposed in the initiative and no longer needs to be modified to reconcile the two).
3. Delete **Suggested Modification #2** on staff report page 5 (because the City’s corrected submittal matches the IP text proposed in the initiative and no longer needs to be modified to reconcile the two).
4. Insert new **Suggested Modification #1** on page 5 as follows (in order to add the required cross-reference to Historic Resource Preservation protections found elsewhere in the IP and to add back other relevant text deleted from Chapter 18.39 in prior amendment action):

Chapter 18.39 Historic Resources Preservation

For the purposes of Section 18.39.045 below, “this chapter” means Chapter 18.39 and Section 18.20.070.G. For the purposes of Section 18.39.045 below, “any historic resource on the inventory”, “any building or object on the historic resource inventory from a site”, or “building or object” refer to the Main Street Bridge.

18.39.045 Demolition of Any Historic Resource on the Inventory

Prior to authorizing the issuance of a demolition permit to remove any building or object on the historic resources inventory from a site, the procedures set forth in this section shall be followed:

- A. *The property owner shall submit evidence from a qualified professional that the building or object is a hazard to public health or safety and repairs or stabilization are not feasible; or*
- B. *The property owner shall submit a written statement indicating that there is no viable economic use of the building or object in its present configuration or condition, and it is not feasible to derive a reasonable economic return from the building or object in its present configuration or condition; and*
- C. *The property owner shall submit a written statement indicating that the building or object has been offered as a donation to a responsible organization such as the Spanish town historical society for relocation to an appropriate receptor site for preservation.*

Notwithstanding any other provisions of this Chapter, the Main Street Bridge's historical, visual and physical integrity (including appearance and character) shall be preserved intact, and its demolition or physical expansion prohibited, unless preservation of the Bridge and its historical, visual and physical integrity is rejected and such demolition or physical expansion is authorized by the City Council and at least a majority of the City's electors voting at a general or special election at which such a measure is submitted.

5. On page 6 of the staff report, modify the description of the proposed LUP and IP amendments to reflect the City's corrected submittal, the City Council Ordinance of June 17, 2014 (see **Exhibit 1**).
6. On page 6 of the staff report, modify the "History of Submittal" section to reflect the action taken in the City's corrected submittal, the City Council Ordinance of June 17, 2014 (see **Exhibit 1**).
7. On page 7 of the staff report, delete the last paragraph from the "History of Submittal" section.
8. On page 8 of the staff report, delete paragraphs 2 and 3 from the "Analysis of Proposed LUP changes" section.
9. On page 9 of the staff report, modify the "Analysis of Proposed IP Changes" section to reflect the action taken in the City's corrected submittal, the City Council Ordinance of June 17, 2014 (see **Exhibit 1**).
10. On page 9 of the staff report, change references to **Suggested Modification 2** to be references to **Suggested Modification 1**.
11. On pages 9-10 of the staff report, modify the following text:

Finally, ~~to assure consistency with the previously mentioned California Elections code requirements, Suggested Modification 1 2 is required to define terms that are being added back to Section 18.39.045 and to add back other relevant text deleted from Chapter 18.39 in prior action (LCP amendment HMB-MAJ-1-11)reconcile the IP amendment text as passed by the Planning Commission resolution with the Measure adopted by the City of Half Moon Bay voters. In short, the resolution language will revert back to the exact language as was passed by the citizen-sponsored voter initiative with the exception of correcting the referenced chapter. The City has agreed to this suggested modification.~~

12. Replace staff report Exhibits 1 and 2 with the City's corrected submittal, the City Council Ordinance of June 17, 2014 (see **Exhibit 1**).

Exhibit 1: City's Letter and Corrected Submittal (the City Council Ordinance of June 17, 2014)



CITY OF HALF MOON BAY

Office of the City Attorney

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May 8, 2015

*Via Electronic Mail
And United States Mail*

Stephanie Rexing, Coastal Planner
California Coastal Commission
North Central Coast District
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Re: **City of Half Moon Bay Amendment Number LCP-2-HMB-14-0845-2 (Measure F/
Main Street Bridge Preservation Act)**

Dear Stephanie:

This is a follow-up to our conversations of yesterday and this morning, in which we discussed and agreed upon your issuance of an addendum to the Staff Report for the above-referenced item, the purpose of which is to correct an inadvertent error in the City's initial submittal of December 5, 2014, and to clarify its request for certification of proposed amendments to Policy 7-8 (Visual Resources) of the Local Coastal Program Land Use Plan (LUP) and Section 18.39.045 of the Implementation Plan (IP).

As we've discussed, events occurred in early 2014 that resulted in two substantially identical ballot measures being adopted in June, 2014. The first, Measure F, was a City Council sponsored ballot measure approved by the voters on June 3rd. The second, a citizen sponsored initiative entitled the "Main Street Bridge Preservation Act," (MSBPA) was later adopted by the City Council on June 17th as Ordinance No. C-2014-07 (in lieu of being placed before the voters at the November, 2014 statewide election), after proponents submitted their initiative petition containing a sufficient number of valid signatures to qualify for the ballot.

Following these actions, City staff proceeded to process the proposed amendments in accordance with the procedures set forth in IP Chapter 18.24, and a hearing properly noticed in accordance therewith was conducted by the Planning Commission on September 24, 2014, at which time it adopted a Resolution "RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING POLICY 7-8 "VISUAL RESOURCES" OF THE LOCAL COASTAL PLAN LAND USE PLAN (LCP/LUP) AND CHAPTER 18.39 "HISTORICAL RESOURCES PRESERVATION" OF THE ZONING CODE." The matter was then scheduled to be considered by the City Council at its November 18, 2014 regular meeting. In researching the matter in advance of November meeting, however, I came upon the case of *San Mateo*

Stephanie Rexing, Coastal Planner

May 8, 2015

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County Coastal Landowners' Association v. County of San Mateo, et al., (1995) 38 Cal.App.4th 523, which essentially holds that the initiative process specified by the California Elections Code is the functional equivalent of the notice and hearing process for LCP amendments as contained in the Coastal Act.

Based on the *San Mateo County Coastal Landowners'* decision I concluded that, upon their approval in accordance with the process specified in the Elections law for ballot initiatives, no further action was required by the City and, therefore, that both Measure F and the MSBPA should have been submitted forthwith to the Commission for certification. Unfortunately, rather than the actual text of Measure F as approved by the voters on June 3rd, and the Ordinance adopted by the Council on June 17th, the City's December 5th submittal erroneously enclosed a copy of the Planning Commission's September 24th, 2014 Resolution, which recommended Council adoption of proposed LUP and IP amendments that differed slightly, although non-substantively, from the previously adopted measures. I understand that you later requested, and were furnished, copies of both Measure F and the MSBPA from City staff.

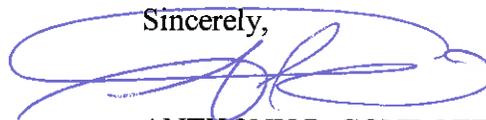
To clarify, please consider this letter as the City of Half Moon Bay's formal request to the Coastal Commission for certification of amendments to LUP Policy 7-8 (Visual Resources) and Section 18.39.045 (Demolition of any Historic Resource on the Inventory) exactly as written in the citizen sponsored "Main Street Bridge Preservation Act," approved by the City Council on June 17th, 2014, a true and correct copy of which is attached hereto.

As we have discussed, the MSBPA added non-substantive language not found in Measure F (mostly the phrase "preservation of the Bridge and its historical, visual and physical integrity"). Based on well-established rules of statutory construction, the later approved measure may be interpreted to have amended the earlier.

In addition to the foregoing, it is our understanding that Coastal Commission staff would like to recommend that the Commission certify the proposed amendment with some introductory language in Chapter 18.39 cross-referencing the historic resource protection requirements of Section 18.20.070.G. As we've discussed, the proposed modification is acceptable to City staff and we will be recommending that it be accepted by the City Council.

Thank you for your continued courtesy and cooperation.

Sincerely,



ANTHONY P. CONDOTTI
City Attorney

/enclosure/

cc: Magda Gonzalez, City Manager
Dante Hall, Community Development Director
Bruce Ambo, Planning Manager

Ordinance No. C-2014-07

AN ORDINANCE AMENDING POLICY 7-8 (VISUAL RESOURCES)
OF THE LOCAL COASTAL PROGRAM LAND USE PLAN (LUP)
AND SECTION 18.39.045 OF THE IMPLEMENTATION PLAN (Title 18)
TO PROHIBIT DEMOLITION OR EXPANSION OF THE MAIN STREET BRIDGE WITHOUT
OBTAINING MAJORITY VOTER APPROVAL
FOR SUCH DEMOLITION OR EXPANSION AT A SUBSEQUENT ELECTION
MAIN STREET BRIDGE PRESERVATION ACT

Be it ordained by the People of the City of Half Moon Bay:

SECTION 1. Title

This measure shall be known and may be cited as the "Main Street Bridge Preservation Act."

SECTION 2. Findings and Declarations

The People of the City of Half Moon Bay declare their findings and purposes in enacting this Initiative to include the following:

Whereas, the Main Street Bridge was the first concrete bridge built in San Mateo County, is the second oldest surviving example of a steel reinforced concrete arch bridge in California, and remains possibly the oldest concrete bridge to use braided steel cables for reinforcement in the world; and

Whereas, the Main Street Bridge is an irreplaceable public resource of the highest value; and

Whereas, the Main Street Bridge has been listed on the Half Moon Bay Historical Resource Inventory since 1986; and

Whereas, the California State Historical Resources Commission voted unanimously on February 7, 2014, to forward the Nomination of the Main Street Bridge to the Keeper of the Register of the National Register of Historic Places for inclusion on the National Register; and

Whereas, it is in the interest of the City of Half Moon Bay to preserve the unique character and quality of distinctive architectural, historical and visual resources of the City; and

Whereas, the City's Circulation Element, Action 3-1, requires consideration of special circumstances such as historical significance, environmental concerns, and/or lack of room as well as the need to incorporate complete streets to the extent feasible and to allow for well-designed deviations in updating its engineering and design standards;

Therefore, the people of Half Moon Bay declare that it is the policy of the City of Half Moon Bay that:

The Main Street Bridge's historical, visual, and physical integrity (including appearance and character) shall be preserved intact, and its demolition or physical expansion prohibited, unless preservation of the bridge and its historical, visual, and physical integrity is rejected and such demolition or physical expansion of the bridge's historical, visual, and physical integrity is authorized by the City Council and at least a majority of the City's electors voting at a general or special election at which such a measure is submitted.

SECTION 3. Purpose and Intent

The people of the City of Half Moon Bay hereby find and declare the following:

- a. The Main Street Bridge is an irreplaceable public resource of the highest value.
- b. It is in the interest of Half Moon Bay to preserve the unique character and quality of distinctive architectural and historical resources of the City's downtown.

SECTION 4. Definitions

For the purposes of this Act, "Main Street Bridge" means the Pilarcitos Creek Bridge, also known as the Main Street Bridge, Site Number CA 0035C-25, spanning the Pilarcitos Creek, in Half Moon Bay, California.

SECTION 5. Local Coastal Program Land Use Plan Amendment

(Amendments are indicated by ~~strikeout~~ and underlining.)

The Local Coastal Program Land Use Plan is amended as follows:

- a. Policy 7-8 of Chapter 7 (VISUAL RESOURCES) is amended to read as follows:

Policy 7-8:

New development, alterations to existing structures, and proposed demolitions in the downtown area, as designated on the Visual Resource Overlay Map, shall be subject to design approval in accordance with the following criteria:

- (a) Scale and style similar to that of the predominant older structures.
- (b) Continuity in building lines maintained along Main Street.
- (c) Existing older buildings which contribute significantly to the character of the area not demolished or altered in a manner which eliminates key architectural features.

Notwithstanding any other provisions of this Chapter, the Main Street Bridge's historical, visual and physical integrity (including appearance and character) shall be preserved intact, and its demolition or physical expansion prohibited, unless preservation of the Bridge and its historical, visual and physical integrity is rejected and such demolition or physical expansion is authorized by the City Council and at least a majority of the City's electors voting at a general or special election at which such a measure is submitted.

SECTION 6. Municipal Code Amendment

(Amendments are indicated by ~~strikeout~~ and underlining.)

The City Municipal Code is amended as follows:

a. City Municipal Code Section 18.39.045 is amended as follows:

Prior to authorizing the issuance of a demolition permit to remove any building or object on the historic resources inventory from a site, the procedures set forth in this section shall be followed:

- A. The property owner shall submit evidence from a qualified professional that the building or object is a hazard to public health or safety and repairs or stabilization are not feasible; or
- B. The property owner shall submit a written statement indicating that there is no viable economic use of the building or object in its present configuration or condition, and it is not feasible to derive a reasonable economic return from the building or object in its present configuration or condition; and
- C. The property owner shall submit a written statement indicating that the building or object has been offered as a donation to a responsible organization such as the Spanish town historical society for relocation to an appropriate receptor site for preservation.

Notwithstanding any other provisions of this Chapter, the Main Street Bridge's historical, visual and physical integrity (including appearance and character) shall be preserved intact, and its demolition or physical expansion prohibited, unless preservation of the Bridge and its historical, visual and physical integrity is rejected and such demolition or physical expansion is authorized by the City Council and at least a majority of the City's electors voting at a general or special election at which such a measure is submitted.

SECTION 7. City Government Responsibilities

- a. The City Council of the City of Half Moon Bay is hereby authorized and

directed to amend provisions of the General Plan, Local Coastal Program Land Use Plan, Municipal Code, and any other policies, specific plans, maps and ordinances not amended by this Initiative as soon as possible and in the manner and time required by State or Federal law, if such amendments are necessary to ensure consistency between this Initiative and other elements and provisions of the City's General Plan, Local Coastal Program Land Use Plan, Municipal Code, and other City policies, specific plans, maps and ordinances.

b. The City Council shall submit, and process to completion, any amendment(s) to the Local Coastal Program by this Initiative, which require approval, to the California Coastal Commission, not later than 60 days, after the Initiative becomes effective, except as provided in Section 8, in an appropriate manner with necessary supporting documents and information.

c. The City Council and other officials and employees of the City Government are mandated by the People of the City of Half Moon Bay to apply and enforce the provisions of this Initiative, except to the extent that application of any provision is determined by a valid and final order of the California Coastal Commission to violate the California Coastal Act of 1976, or is determined by a valid order of a court to violate the Constitution or law of California or the United States.

SECTION 8. Effective Date

In accordance with the provisions of California Elections Code section 9217, if a majority of the voters vote in favor of the Initiative, the Initiative shall go into effect 10 days after the vote is declared by the City Council, However, if in the year this Initiative becomes effective the maximum number of General Plan and Local Coastal Program amendments permitted by state law for that year have already been made, the General Plan and Local Coastal Program Land Use Plan and Municipal Code amendments made herein shall be made at the earliest possible time thereafter, but no demolition or physical expansion of the Main Street Bridge shall be allowed in the interim.

SECTION 9. Severability

If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part or portion of this Initiative is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, parts or portions of this Initiative. The voters hereby declare that this Initiative, and each section, subsection, paragraph, subparagraph, sentence, clause, phrase, part or portion thereof would have been adopted or passed even if one or more sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, parts or portions are declared invalid or unconstitutional. If any provision of this Initiative is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Initiative that can be given effect without the invalid application.

SECTION 10. Construction of Initiative

This Initiative shall be liberally construed to accomplish its purposes. This Initiative is not intended to preempt or conflict with any state or federal law or regulation, and shall be so construed and applied. This Initiative is also intended to be and shall be construed as consistent with each and every element, provision and map, and the whole of the Half Moon Bay General Plan.

SECTION 11. Consistency with Other Ballot Measures

If another ballot measure is placed on the same ballot as this measure and deals with the same subject matter, and if both measures pass, the voters intend that both measures shall be put into effect, except to the extent that specific provisions of the measures are in direct conflict. In the event of a direct conflict, the measure which obtained more votes will control as to the directly conflicting provisions only. The voters expressly declare this to be their intent, regardless of any contrary language in any other ballot measure.

SECTION 12. Amendments.

Except as expressly provided herein, this Initiative may be amended or repealed only by the voters of the City of Half Moon Bay.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Half Moon Bay, California, held on the 17th day of June, 2014, by the following vote:

AYES, Councilmembers: Alifano, Kowalczyk, Patridge & Mayor Muller

NOES, Councilmembers: _____

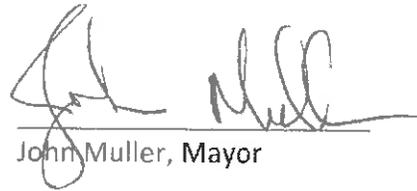
ABSENT, Councilmembers: Fraser

ABSTAIN, Councilmembers: _____

ATTEST:



Siobhan Smith, City Clerk



John Muller, Mayor

found on page 3 below.

Staff Note: LCP Amendment Action Deadline: This proposed LCP amendment was filed as complete on April 15, 2015. The proposed amendment affects both the LUP and the IP, thus the Commission has a 90-day action deadline, or until July 14, 2015 to take a final action on this LCP amendment.

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EXHIBITS

- Exhibit 1: Proposed Amendments in Composite
- Exhibit 2: Planning Commission Resolution
- Exhibit 3: Citizen-Sponsored Initiative
- Exhibit 4: Correspondence

I. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, approve the proposed LCP amendment only if modified. The Commission needs to make two motions in order to act on this recommendation.

A. Denial of the LUP Amendment as Submitted

Staff recommends a **NO** vote on the motion below. Failure of the motion will result in denial of the LUP amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

***Motion:** I move that the Commission certify Land Use Plan Amendment LCP-2-HMB-14-0845-2 as submitted by the City of Half Moon Bay.*

***Resolution:** The Commission hereby denies certification of the Land Use Plan Amendment LCP-2-HMB-14-0845-2 as submitted by the City of Half Moon Bay and adopts the findings set forth below on the grounds that the Amendment does not conform with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan Amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment.*

B. Certify the LUP Amendment with Suggested Modifications

Staff recommends a **YES** vote on the motion below. Passage of the motion will result in the certification of the LUP amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners.

***Motion:** I move that the Commission **CERTIFY** Land Use Plan Amendment LCP-2-HMB-14-0845-2 for the City of Half Moon Bay if it is modified as suggested in this staff report.*

***Resolution:** The Commission hereby certifies Land Use Plan Amendment LCP-2-HMB-14-0845-2 for the City of Half Moon Bay Local Coastal Program, if modified as suggested, and adopts the findings set forth below on the grounds that the land use plan amendment with the suggested modifications will meet the requirements of and be in conformity with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan Amendment, if modified as suggested, complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Land Use Plan Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts which the Land Use Plan Amendment may have on the environment.*

C. Deny the IP Amendment as Submitted

Staff recommends a **YES** vote on the motion below. Passage of the motion will result in

rejection of the IP amendment and the adoption of the following resolution and findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

Motion: *I move that the Commission **REJECT** Implementation Plan Amendment LCP-2-HMB-14-0845-2 as submitted by the City of Half Moon Bay.*

Resolution: *The Commission hereby denies certification of the Implementation Plan Amendment Number LCP-2-HMB-14-0845-2 as submitted by the City of Half Moon Bay and adopts the findings set forth below on the grounds that, as submitted, the Implementation Plan Amendment does not conform with and is inadequate to carry out the provisions of the certified Land Use Plan as amended. Certification of the Implementation Plan Amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives or mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Plan Amendment as submitted.*

D. Approve the IP Amendment with Suggested Modifications

Staff recommends a **YES** vote. Passage of the motion will result in the certification of the IP amendment with suggested modifications and adoption of the following resolution and findings. The motion to certify with suggested modifications passes only upon an affirmative vote of the majority of the appointed Commissioners.

Motion: *I move that the Commission **CERTIFY** Implementation Plan Amendment LCP-2-HMB-14-0845-2 if it is modified as suggested in this staff report.*

Resolution: *The Commission hereby certifies Implementation Plan Amendment LCP-2-HMB-14-0845-2 for the City of Half Moon Bay Local Coastal Program, if modified as suggested, and adopts the findings set forth below on the grounds that the Implementation Plan Amendment with suggested modifications conforms with and is adequate to carry out the certified Land Use Plan as amended. Certification of the Implementation Plan Amendment, if modified as suggested, complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan Amendment on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment.*

II. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Coastal Act and Land Use Plan (LUP) consistency findings. If the City of Half Moon Bay accepts each of the suggested modifications within six months of Commission action (i.e., by November 14, 2015), by formal resolution of the City Council, the modified LCP amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished.

Where applicable, text in ~~cross-out~~ format denotes text that the City proposes to delete and text in underline format denotes text that the City proposes to add. Text in ~~double cross-out~~ format denotes text to be deleted through the Commission's suggested modifications and text in double underline format denotes text to be added through the Commission's suggested modifications.

1. Modify Land Use Plan Policy 7-8 as follows:

New development, alterations to existing structures, and proposed demolitions in the downtown area, as designated on the Visual Resource Overlay Map, shall be subject to design approval in accordance with the following criteria:

- (a) Scale and style similar to that of the predominant older structures.*
- (b) Continuity in building lines maintained along Main Street.*
- (c) Existing older buildings which contribute significantly to the character of the area not demolished or altered in a manner which eliminates key architectural features.*

Notwithstanding any other provisions of this Chapter, the Main Street Bridge's historical, visual and physical integrity (including appearance and character) shall be preserved intact, and its demolition or physical expansion prohibited, unless preservation of the Bridge and its historical, visual and physical integrity is rejected and such demolition or physical expansion is authorized by the City Council and approved by at least a majority of the City's electors voting electorate in a subsequent ballot measure at a general or special election at which such a measure is submitted.

2. Modify Implementation Plan Section 18.39.005 as follows:

Chapter 18.39 Historic Resources Preservation

18.39.005 Main Street Bridge Preservation Act (Measure F)

Consistent with the mandate of Measure F, the Main Street Bridge Preservation Act, it is the policy of the city to preserve intact the Main Street Bridge's historical, visual and physical integrity (including appearance and character). Notwithstanding any other provisions of this Chapter or Section 18.20.070.G Title or Chapter 14.38 Historic Resources Preservation, the Main Street Bridge's historical, visual and physical integrity (including appearance and character) shall be preserved intact and its the demolition or physical expansion of the Main Street Bridge is prohibited, unless preservation of the Main Street Bridge and its historical, visual and physical integrity is rejected and such demolition or physical expansion is authorized by the City Council and approved by at least a majority of the City's electors voting electorate in a subsequent ballot measure at a general or special election at which such a measure is submitted.

III. FINDINGS AND DECLARATIONS

A. PROPOSED LUP AND IP AMENDMENTS

The City of Half Moon Bay is proposing to amend its Local Coastal Program (LCP) Land Use Plan, Chapter 7, “Visual Resources,” Policy 7-8 to add the following: “Notwithstanding any other provisions of this Chapter, the Main Street Bridge’s historical, visual and physical integrity (including appearance and character) shall be preserved intact, and its demolition or physical expansion prohibited, unless preservation of the Bridge and its historical, visual and physical integrity is rejected and such demolition or physical expansion is authorized by the City Council and approved by at least a majority of the City’s voting electorate in a subsequent ballot measure at a general or special election at which such a measure is submitted.”

The proposed amendment would also amend the LCP’s Implementation Plan (IP) to add Section 18.39.005 to Zoning Code Chapter 18.39 “Historic Resource Preservation” as follows: “18.39 Main Street Bridge Preservation Act (Measure F) Consistent with the mandate of Measure F, the Main Street Bridge Preservation Act, it is the policy of the city to preserve intact the Main Street Bridge’s historical, visual and physical integrity (including appearance and character). Notwithstanding any other provisions of this Title or Chapter 14.38 Historic Resources Preservation, the demolition or physical expansion of the Main Street Bridge is prohibited, unless preservation of the Main Street Bridge and its historical, visual and physical integrity is rejected and such demolition or physical expansion is authorized by the City Council and approved by at least a majority of the City’s voting electorate in a subsequent ballot measure at a general or special election at which such a measure is submitted.”

Please see **Exhibit 1** for the full text of the amendments in composite.

History of Submittal

The City originally submitted this LUP/IP amendment on December 8, 2014. This LUP/IP amendment is meant to effectuate a citizen-sponsored initiative (please see **Exhibit 3** for full text of the initiative), known as “Measure F-the Main Street Bridge Preservation Act (MSBPA),” approved by the Half Moon Bay electorate on June 3, 2014. This initiative established preservation of the existing Main Street Bridge’s historical, visual and physical integrity (including appearance and character) as a City policy. The initiative also required the City to adopt ordinances amending the Local Coastal Program LUP and IP to prohibit the Bridge’s demolition or physical expansion, unless such action was approved by voters in another future ballot measure.

The Half Moon Bay Planning Commission conducted a duly noticed hearing on September 23, 2014 where the City Planning Commission resolved to adopt Measure F as City policy and update the City’s LUP and IP in order to implement the policies of Measure F as required by the passed initiative. Please see the full text of the Planning Commission resolution in **Exhibit 2**.

The Planning Commission Resolution, as well as the citizen-sponsored initiative, propose to amend IP Chapter 18.39, “Historic Resources Preservation” to enact and implement Measure F and the MSBPA. However, earlier in 2014, through the City-initiated LCP amendment HMB-MAJ-1-11, the City proposed to delete Chapter 18.39 from the City IP. On July 11, 2014, the Commission approved this deletion, with modifications to the City’s submittal requiring that historic resource provisions be added back into Section 18.20.070 of the City’s IP. The City accepted this modification on October 7, 2014 by Ordinance to the City Council No. C-2014-10. On January 7, 2015, the Commission concurred with the Executive Director’s determination that

the actions taken by the City of Half Moon Bay to accept the Commission's approval of LCP Amendment HMB-MAJ-1-11 were legally adequate. As a result of the City's acceptance on October 7th and the Commission's action on January 7th, there is no longer a Chapter 18.39 included within the City's IP.

Also of note, when the City Planning Commission adopted the resolution required to implement the citizen-sponsored initiative, some non-substantive changes in language were made to both the amendments to the LUP Chapter 7-8 and the IP Section 18.39.005. Therefore, the amendments the Planning Commission resolved to make to the LCP differ from the text that Measure F proposed to add to the LCP. For the differences between the initiative text approved by the electorate and the amendments proposed by the resolution please compare **Exhibit 1** (composite amendment text) to **Exhibit 3** (initiative text).

B. STANDARD OF REVIEW

The proposed amendment affects both the LUP and IP components of the City of Half Moon Bay's LCP. The standard of review for the LUP amendment is that it must conform with the requirements of Chapter 3 of the Coastal Act. The standard of review for the IP amendment is that it must conform with and be adequate to carry out the provisions of the certified LUP.

C. CONSISTENCY ANALYSIS

LUP Amendment Consistency Analysis

Applicable Policies

Coastal Act Section 30251 specifically protects the scenic and visual qualities of coastal areas as a resource of public importance and requires that development be compatible with the character of surrounding areas. Section 30253 requires that, where appropriate, new development protect special communities and neighborhoods with unique characteristics that are popular visitor destinations. In addition, Coastal Act Section 30244 requires reasonable mitigation when archeological or paleontological resources (as designated by the State Historic Preservation Officer) are threatened by new development. Coastal Act Sections 30251, 30253(e), and 30244 state:

***Section 30251.** The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

***Section 30253(e).** New development shall... (e) where appropriate, protect special communities and neighborhoods that, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Section 30244. Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Analysis of Proposed LUP changes

The proposed LUP amendment would insert protections for a historic resource, the Main Street Bridge, into the LUP of the City's Local Coastal Plan in accordance with the citizen-sponsored initiative, Measure F. The amendment establishes that the Bridge's historical, visual and physical integrity (including appearance and character) are to be preserved, and that the Bridge may not be demolished or expanded unless a majority of the voters reject the Bridge's visual and physical integrity and authorize such development in another election. This amendment is consistent with Coastal Act requirements found in Sections 30244, 30251, and 30253(e), which require the protection of designated historical resources, scenic and visual qualities of coastal areas, or any areas found to have unique character. The Main Street Bridge is considered such a resource to the people of Half Moon Bay, as a citizen-sponsored initiative to protect the existing Bridge, supported by a petition with approximately 800 validated signatures, was passed by a majority vote. The protections for the Bridge that are added by the proposed LUP amendment would assure that the Bridge remains in its current historical state, consistent with Coastal Act Sections protecting visual, unique and historical character in the Coastal Zone.

As previously stated, when the City Planning Commission adopted the resolution required to implement the citizen-sponsored initiative, some non-substantive changes in language were made to both the amendments to the LUP Chapter 7-8 and the IP Section 18.39.005. Therefore, the amendments the Planning Commission resolved to make to the LCP differ from the text that Measure F proposed to add to the LCP. Commission Staff has received correspondence from the citizen sponsors of the Measure F initiative, as well as from other interested citizens, raising concerns that these minor, but apparent differences in what was passed by the voters and what was adopted by the Planning Commission may be inconsistent with Measure F and could undo what the citizens passed in the June 2014 election. Further California Elections Code Section 9217 requires, "[n]o ordinance that is either proposed by initiative petition and adopted by the vote of the legislative body of the city without submission to the voters, or adopted by the voters, shall be repealed or amended except by a vote of the people, unless provision is otherwise made in the original ordinance." Therefore, the text passed in the Measure F initiative by the voters cannot be "replaced or amended" without again submitting those changes to the voters. For consistency with the California Elections Code, **Suggested Modification 1** is required to reconcile the LUP amendment text as passed by the Planning Commission resolution with the Measure adopted by the City of Half Moon Bay voters. In short, the resolution language will revert back to the exact language as was passed by the citizen-sponsored voter initiative. The City has agreed to this suggested modification.

As modified above, the Commission finds the proposed LUP amendment would conform with the above-reference Coastal Act policies and would resurrect the amendment with the citizen initiative as required by the Elections Code.

IP Amendment Consistency Analysis

Applicable Policies

The City of Half Moon Bay LUP Policy 7-8 requires that new development, and proposed demolitions in the downtown area are subject to design approval and must be in scale and style similar to that of predominant older structures, have continuity with building lines along Main Street and that if an existing building contributes to character of the area, it not be demolished or altered in a way that would eliminate key architectural features. LUP Policy 7-8 states:

New development, alterations to existing structures and proposed demolitions in the downtown area as designated on the Visual Resource Overlay Map shall be subject to design approval in accordance with scale and style similar to older structures.

Coastal Act Section 30513 limits Commission rejection of zoning ordinances to those which do not conform with or are inadequate to carry out the Land Use Plan; by implication, the basis for approval is that the zoning ordinances conform with the Land Use Plan and are adequate to carry it out.

Analysis of Proposed IP changes

The proposed IP amendment would implement the above-referenced LUP changes by adding to Chapter 18.39 of the existing City IP language that requires that Main Street Bridge's historical, visual and physical integrity (including appearance and character) be preserved, and that the Bridge cannot be demolished or expanded unless a majority of the voters reject the Bridge's visual and physical integrity and authorize its demolition in another election. This amendment to the IP would effectively implement the proposed LUP amendment and would conform to and carry out the amended LUP Policy 7-8, which requires that the bridge be protected in its historical state. Further the IP amendments would conform to and adequately carry out the LUP in accordance with Coastal Act Section 30513.

As previously stated, the amendment as proposed by the Planning Commission Resolution, as well as the citizen-sponsored initiative, propose to amend IP Chapter 18.39, "Historic Resources Preservation" to enact and implement Measure F and the MSBPA. However, earlier in 2014, through the City-initiated LCP amendment HMB-MAJ-1-11, the City proposed to delete Chapter 18.39 from the existing IP. In the Commission's July 11, 2014 action, the Commission approved this deletion, with modifications to the City's submittal requiring historic resource protection provisions to be added back to Section 18.20.070 of the IP. The City accepted this modification on October 7, 2014 by Ordinance to the City Council No. C-2014-10 and the Commission certified that action on January 7, 2015. As a result of the City's acceptance on October 7th and the Commission's action on January 7, 2015, there is no longer a Chapter 18.39 in the City's IP. In order to amend Chapter 18.39 to implement Measure F and Policy 7-8 of the LUP, **Suggested Modification 2** is necessary to add back in the Chapter 18.39 Historical Resource Preservation title and a cross reference to the historic resource preservation policies now found in Section 18.20.070. With this modification, the proposed amendment can be added to the IP, with the necessary historic resource preservation context. This will assure that the IP implements the LUP Policies regarding the Bridge and adequately carries out the new LUP policies regarding the Bridge. Finally, to assure consistency with the previously mentioned California Elections code requirements, **Suggested Modification 2** is required to reconcile the IP amendment text as passed by the Planning Commission resolution with the Measure adopted by the City of Half Moon Bay voters. In short, the resolution language will revert back to the exact language as was

passed by the citizen-sponsored voter initiative with the exception of correcting the referenced chapter. The City has agreed to this suggested modification.

As modified above, the Commission finds the proposed IP amendment would conform with and be adequate to carry out the historic resource protection policies of the LUP.

D. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) – exempts a local government from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals necessary for the preparation and adoption of a LCP. Therefore, local governments are not required to prepare an EIR in support of their proposed LCP amendments, although the Commission can and does use any environmental information that the local government submits in support of its proposed LCPA. Instead, the CEQA responsibilities are assigned to the Coastal Commission and the Commission's LCP review and approval program has been found by the Resources Agency to be the functional equivalent of the environmental review required by CEQA, pursuant to CEQA Section 21080.5. Therefore, the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required, in approving an LCP amendment submittal, to find that the approval of the proposed LCP, as amended, conforms with CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13540(f), 13542(d).

The City's LCP Amendment consists of an LUP and IP amendment. The Commission incorporates its findings on Coastal Act and Land Use Plan (LUP) conformity into this CEQA finding as it is set forth in full. As modified, the Commission finds that approval of the LCP amendment will not result in significant adverse environmental impacts under the meaning of the California Environmental Quality Act.

As the amendment protects a historical resource, the amendment creates no potential for significant adverse environmental impacts. Therefore, the Commission finds that there are no other feasible alternatives or mitigation measures under the meaning of CEQA which would further reduce the potential for significant adverse environmental impacts.

EXHIBIT A

(Text in ~~strikethrough~~ format denotes text that the City proposes to delete and text in underline format denotes text that the City proposes to add)

1. Local Coastal Program Land Use Plan Chapter 7 “VISUAL RESOURCES”, Policy 7-8 is amended as follows:

New development, alterations to existing structures, and proposed demolitions in the downtown area, as designated on the Visual Resource Overlay Map, shall be subject to design approval in accordance with the following criteria:

- (a) Scale and style similar to that of the predominant older structures.
- (b) Continuity in building lines maintained along Main Street.
- (c) Existing older buildings which contribute significantly to the character of the area not demolished or altered in a manner which eliminates key architectural features.

Notwithstanding any other provisions of this Chapter, the Main Street Bridge's historical, visual and physical integrity (including appearance and character) shall be preserved intact, and its demolition or physical expansion prohibited, unless preservation of the Bridge and its historical, visual and physical integrity is rejected and such demolition or physical expansion is authorized by the City Council and approved by at least a majority of the City's voting electorate in a subsequent ballot measure at a general or special election at which such a measure is submitted.

2. Chapter 18.39 “Historic Resources Preservation” of the Zoning Code is amended as follows:

a. Section 18.39.005 is added to Zoning Code Chapter 18.39 “Historic Resources Preservation”, to read as follows:

“18.39.005 Main Street Bridge Preservation Act (Measure F)

Consistent with the mandate of Measure F, the Main Street Bridge Preservation Act, it is the policy of the city to preserve intact the Main Street Bridge's historical, visual and physical integrity (including appearance and character). Notwithstanding any other provisions of this Title or Chapter 14.38 Historic Resources Preservation, the demolition or physical expansion of the Main Street Bridge is prohibited, unless preservation of the Main Street Bridge and its historical, visual and physical integrity is rejected and such demolition or physical expansion is authorized by the City Council and approved by at least a majority of the City's voting electorate in a subsequent ballot measure at a general or special election at which such a measure is submitted.”

RESOLUTION NO. P-20-14

PDP-057-14

RESOLUTION OF PLANNING COMMISSION OF THE CITY OF HALF MOON BAY RECOMMENDING THAT THE CITY COUNCIL ADOPT OF AN ORDINANCE AMENDING POLICY 7-8 "VISUAL RESOURCES" OF THE LOCAL COASTAL PLAN LAND USE PLAN (LCP/LUP) AND CHAPTER 18.39 "HISTORIC RESOURCES PRESERVATION" OF THE ZONING CODE.

WHEREAS, the City of Half Moon Bay is committed to maximum public participation and involvement in matters pertaining to the General Plan and its Elements, the Local Coastal Program, and the Zoning Code; and

WHEREAS, on June 3, 2014, a majority of the voting electorate of the City of Half Moon Bay approved a citizen-sponsored initiative known as Measure F, the Main Street Bridge Preservation Act, which established preservation of the Main Street Bridge's historical, visual, and physical integrity (including appearance and character) as the City's policy and required the City to adopt ordinances amending the Local Coastal Program and Zoning Code to prohibit the bridge's demolition or "physical expansion", unless voters approve such an action in another, future ballot measure.

WHEREAS, the City of Half Moon Bay Planning Commission, as the Advisory Body to the City Council, conducted a duly noticed hearing on September 23, 2014 at which time all those in attendance desiring to be heard were given an opportunity to speak; and

WHEREAS, the Planning Commission at its public hearing considered text amendments to Policy 7-8 of Chapter 7 "VISUAL RESOURCES" of the Local Coastal Plan Land Use Plan (LCP/LUP) and Chapter 18.39 "HISTORIC RESOURCES PRESERVATION" of the Zoning Code mandated by and consistent with the Main Street Bridge Preservation Act.

WHEREAS, the Planning Commission considered all written and oral testimony presented in its consideration of the amendments; and

WHEREAS, the Zoning Code is part of the Implementation Plan of the City of Half Moon Bay's certified Local Coastal Program/Land Use Plan, which is intended to be carried out in a manner fully in conformity with the California Coastal Act.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Half Moon Bay does hereby recommend that the City Council consider and approve the proposed text amendments to Policy 7-8 of Chapter 7 "VISUAL RESOURCES" of the Local Coastal Plan Land Use

Plan (LCP/LUP) and Chapter 18.39 "HISTORIC RESOURCES PRESERVATION" of the Zoning Code Chapter 18.09, as contained in the attached Exhibit A.

The documents that constitute the record of proceedings on which the Planning Commission's findings are based are located with the Planning Department of the City of Half Moon Bay, 501 Main Street, Half Moon Bay, CA 94109. This information is provided in compliance with Public Resources Code Section 21081.6 and Title 14 of the California Code of Regulations.

PASSED AND ADOPTED by the City of Half Moon Bay Planning Commission at a duly noticed public hearing held on September 23, 2014 by the following vote:

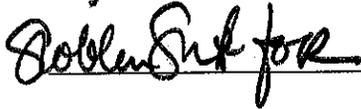
AYES, Deman, Rosenblatt, Jonsson

ABSENT, Roman

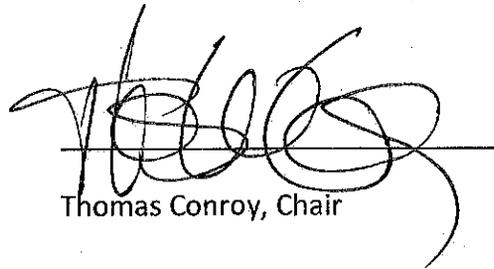
ABSTAIN, Conroy

ATTEST:

APPROVED:



Melissa Thurman, Assistant City Clerk



Thomas Conroy, Chair

2014 FEB 10 PM 3: 03

February 10, 2014

Siobhan Smith, City Clerk
City of Half Moon Bay
City Hall
501 Main Street
Half Moon Bay, CA 94019

Dear Ms. Smith:

Pursuant to California Elections Code please find our "Notice of Intent to Circulate Petition," our proposed Initiative, and an acknowledgment of Elections Code Section 18650 enclosed herein. The undersigned proponents of this Initiative hereby request that a "Ballot Title and Summary" be prepared by the City Attorney in accordance with Elections Code Section 9203(a) and that said Ballot Title and Summary be furnished to the undersigned for publication in accordance with Elections Code Section 9206.

Also enclosed, please find a check in the amount of \$200.00 made payable to the City of Half Moon Bay and relating to the filing of the Notice of Intent to Circulate Petition. Said payment is refundable to the undersigned if, within one year, the elections official certifies our petition as being sufficient.

Thank you for your assistance.

1.



David C. Eblovi

2.



Kim Levin

3.



David Cresson

2014 FEB 10 PM 3:04

NOTICE OF INTENT TO CIRCULATE PETITION

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of Half Moon Bay for the purpose of

- Ensuring voters have a voice in deciding the future of the City's historic and iconic Main Street Bridge.

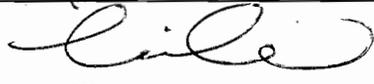
A statement of the reasons of the proposed action as contemplated in the petition is as follows:

The actions of City staff and elected officials regarding the Main Street Bridge Replacement Project have ignored the will of the People of Half Moon Bay who have demonstrated through petitions, letters, and verbal testimony their overwhelming support for preservation of the bridge's historical, visual and physical integrity. Workshops and public hearings on the issue have largely proven to be a waste of the People's time and energy as the City staff and elected officials appear intent on demolishing or irrevocably altering the Main Street Bridge rather than preserving its historical, visual and physical integrity.

The People of Half Moon Bay, being concerned that the City will continue to seek to demolish and replace or irrevocably alter the Bridge rather than pursue preservation of the Bridge as a feasible option, find an initiative to be the only effective means to protect the character of their downtown. An initiative is necessary to ensure that voters have a voice in deciding the future of the Main Street Bridge.

In addition, the undersigned request, pursuant to California Elections Code § 9203, that a ballot title and summary be prepared with respect to the proposed measure, a copy of which is being filed herewith.

Name and Address of Proponents:

<i>Name and Address of Proponents</i>	<i>Proponents' Signatures</i>	<i>Date</i>
David C. Eblövi 14 Muirfield Road Half Moon Bay, CA 94019		2/10/2014
Kim Levin 315 Main Street Half Moon Bay, CA 94019		2/10/2014
David Cresson 326 Main Street Half Moon Bay, CA 94019		2/10/2014

CERTIFICATION REGARDING USE OF SIGNATURES

We, the undersigned, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this Initiative to be used for any purpose other than qualification of the measure for the ballot.

Signed by:

1.



David C. Eblovi

2.



Kim Levin

3.



David Cresson

Dated this 10th day of February, 2014.

CITY CLERK - HMB
2014 FEB 10 PM 3:04

CITY CLERK - HMB
2014 FEB 10 PM 3:04

The full text of the proposed Initiative is as follows:

MAIN STREET BRIDGE PRESERVATION ACT

Be it ordained by the People of the City of Half Moon Bay:

SECTION 1. Title

This measure shall be known and may be cited as the "Main Street Bridge Preservation Act."

SECTION 2. Findings and Declarations

The People of the City of Half Moon Bay declare their findings and purposes in enacting this Initiative to include the following:

Whereas, the Main Street Bridge was the first concrete bridge built in San Mateo County, is the second oldest surviving example of a steel reinforced concrete arch bridge in California, and remains possibly the oldest concrete bridge to use braided steel cables for reinforcement in the world; and

Whereas, the Main Street Bridge is an irreplaceable public resource of the highest value; and

Whereas, the Main Street Bridge has been listed on the Half Moon Bay Historical Resource Inventory since 1986; and

Whereas, the California State Historical Resources Commission voted unanimously on February 7, 2014, to forward the Nomination of the Main Street Bridge to the Keeper of the Register of the National Register of Historic Places for inclusion on the National Register; and

Whereas, it is in the interest of the City of Half Moon Bay to preserve the unique character and quality of distinctive architectural, historical and visual resources of the City; and

Whereas, the City's Circulation Element, Action 3-1, requires consideration of special circumstances such as historical significance, environmental concerns, and/or lack of room as well as the need to incorporate complete streets to the extent feasible and to allow for well-designed deviations in updating its engineering and design standards;

Therefore, the people of Half Moon Bay declare that it is the policy of the City of Half Moon Bay that:

The Main Street Bridge's historical, visual, and physical integrity (including appearance and character) shall be preserved intact, and its demolition or physical expansion prohibited, unless preservation of the bridge and its historical, visual, and physical integrity is rejected and such demolition or physical expansion of the bridge's historical, visual, and physical integrity is

authorized by the City Council and at least a majority of the City's electors voting at a general or special election at which such a measure is submitted.

SECTION 3. Purpose and Intent

The people of the City of Half Moon Bay hereby find and declare the following:

- a. The Main Street Bridge is an irreplaceable public resource of the highest value.
- b. It is in the interest of Half Moon Bay to preserve the unique character and quality of distinctive architectural and historical resources of the City's downtown.

SECTION 4. Definitions

For the purposes of this Act, "Main Street Bridge" means the Pilarcitos Creek Bridge, also known as the Main Street Bridge, Site Number CA 0035C-25, spanning the Pilarcitos Creek, in Half Moon Bay, California.

SECTION 5. Local Coastal Program Land Use Plan Amendment

(Amendments are indicated by ~~strikeout~~ and underlining.)

The Local Coastal Program Land Use Plan is amended as follows:

- a. Policy 7-8 of Chapter 7 (VISUAL RESOURCES) is amended to read as follows:

Policy 7-8:

New development, alterations to existing structures, and proposed demolitions in the downtown area, as designated on the Visual Resource Overlay Map, shall be subject to design approval in accordance with the following criteria:

- (a) Scale and style similar to that of the predominant older structures.
- (b) Continuity in building lines maintained along Main Street.
- (c) Existing older buildings which contribute significantly to the character of the area not demolished or altered in a manner which eliminates key architectural features.

Notwithstanding any other provisions of this Chapter, the Main Street Bridge's historical, visual and physical integrity (including appearance and character) shall be preserved intact, and its demolition or physical expansion prohibited, unless preservation of the Bridge and its historical, visual and physical integrity is rejected and such demolition or physical expansion is authorized by the City Council and at least a majority of the City's electors voting at a general or special election at which such a measure is submitted.

SECTION 6. Municipal Code Amendment

(Amendments are indicated by ~~strikeout~~ and underlining.)

The City Municipal Code is amended as follows:

- a. City Municipal Code Section 18.39.045 is amended as follows:

Prior to authorizing the issuance of a demolition permit to remove any building or object on the historic resources inventory from a site, the procedures set forth in this section shall be followed:

- A. The property owner shall submit evidence from a qualified professional that the building or object is a hazard to public health or safety and repairs or stabilization are not feasible; or
- B. The property owner shall submit a written statement indicating that there is no viable economic use of the building or object in its present configuration or condition, and it is not feasible to derive a reasonable economic return from the building or object in its present configuration or condition; and
- C. The property owner shall submit a written statement indicating that the building or object has been offered as a donation to a responsible organization such as the Spanish town historical society for relocation to an appropriate receptor site for preservation. (1996 zoning code (part)).

Notwithstanding any other provisions of this Chapter, the Main Street Bridge's historical, visual and physical integrity (including appearance and character) shall be preserved intact, and its demolition or physical expansion prohibited, unless preservation of the Bridge and its historical, visual and physical integrity is rejected and such demolition or physical expansion is authorized by the City Council and at least a majority of the City's electors voting at a general or special election at which such a measure is submitted.

SECTION 7. City Government Responsibilities

- a. The City Council of the City of Half Moon Bay is hereby authorized and directed to amend provisions of the General Plan, Local Coastal Program Land Use Plan, Municipal Code, and any other policies, specific plans, maps and ordinances not amended by this Initiative as soon as possible and in the manner and time required by State or Federal law, if such amendments are necessary to ensure consistency between this Initiative and other elements and provisions of the City's General Plan, Local Coastal Program Land Use Plan, Municipal Code, and other City policies, specific plans, maps and ordinances.

- b. The City Council shall submit, and process to completion, any amendment(s) to the Local Coastal Program by this Initiative, which require approval, to the California Coastal

Commission, not later than 60 days after the Initiative becomes effective, except as provided in Section 8, in an appropriate manner with necessary supporting documents and information.

c. The City Council and other officials and employees of the City Government are mandated by the People of the City of Half Moon Bay to apply and enforce the provisions of this Initiative, except to the extent that application of any provision is determined by a valid and final order of the California Coastal Commission to violate the California Coastal Act of 1976, or is determined by a valid order of a court to violate the Constitution or law of California or the United States.

SECTION 8. Effective Date

In accordance with the provisions of California Elections Code section 9217, if a majority of the voters vote in favor of the Initiative, the Initiative shall go into effect 10 days after the vote is declared by the City Council. However, if in the year this Initiative becomes effective the maximum number of General Plan and Local Coastal Program amendments permitted by state law for that year have already been made, the General Plan and Local Coastal Program Land Use Plan and Municipal Code amendments made herein shall be made at the earliest possible time thereafter, but no demolition or physical expansion of the Main Street Bridge shall be allowed in the interim.

SECTION 9. Severability

If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part or portion of this Initiative is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, parts or portions of this Initiative. The voters hereby declare that this Initiative, and each section, subsection, paragraph, subparagraph, sentence, clause, phrase, part or portion thereof would have been adopted or passed even if one or more sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, parts or portions are declared invalid or unconstitutional. If any provision of this Initiative is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Initiative that can be given effect without the invalid application.

SECTION 10. Construction of Initiative

This Initiative shall be liberally construed to accomplish its purposes. This Initiative is not intended to preempt or conflict with any state or federal law or regulation, and shall be so construed and applied. This Initiative is also intended to be and shall be construed as consistent with each and every element, provision and map, and the whole of the Half Moon Bay General Plan.

SECTION 11. Consistency with Other Ballot Measures

If another ballot measure is placed on the same ballot as this measure and deals with the same subject matter, and if both measures pass, the voters intend that both measures shall be put into effect, except to the extent that specific provisions of the measures are in direct conflict. In the event of a direct conflict, the measure which obtained more votes will control as to the directly conflicting provisions only. The voters expressly declare this to be their intent, regardless of any contrary language in any other ballot measure.

SECTION 12. Amendments

Except as expressly provided herein, this Initiative may be amended or repealed only by the voters of the City of Half Moon Bay.

Rexing, Stephanie@Coastal

From: Lennie Roberts <lennie@darwin.ptvy.ca.us>
Sent: Saturday, December 13, 2014 11:26 PM
To: Rexing, Stephanie@Coastal; Cave, Nancy@Coastal; Carl, Dan@Coastal; Lester, Charles@Coastal; Mayer, Robin@Coastal
Cc: Ruddock, Deborah; David Eblovi; Mike Ferreira; Jonathan Wittwer
Subject: Main Street Bridge Preservation Act
Attachments: HMB Bridge Initiative Package 2-10-2014.pdf; Measure A SMC submittal CCC.pdf

Dear Stephanie,

David Eblovi forwarded your email with the December 5, 2014 letter from HMB City Planning Manager Bruce Ambo titled: "**City of Half Moon Bay Measure F - Main Street Bridge Preservation Act, Local Coastal Plan - Implementation Plan Amendments**".

You asked David for a copy of the text of the Act. In case you still need this, I am attaching the officially stamped Notice of Intent to Circulate Petition and full text of the "Main Street Bridge Preservation Act" ("MSBPA") as submitted to the City of Half Moon Bay, which received sufficient signatures to qualify for the November 4, 2014 ballot. The MSBPA was adopted by the City Council on June 17, 2014 instead of placing it on the November 4 ballot. There are several material differences between the language in the MSBPA and Measure F, which was placed on the ballot by the City Council on the June 3, 2014 with a competing measure ("E"). The City Council unanimously supported E and opposed Measure F, but F was nonetheless approved by HMB voters, and E was defeated on June 3, 2014. You will find the specific differences between Measure F and the citizen's initiative shown in red-line on pages 208-224 of the June 17, 2014 Agenda packet for the City Council meeting, which is on the City's website. I will try sending this Agenda Packet to you by separate email, but it may be too large to transmit electronically.

Mr. Ambo's December 5 letter to you has several significant errors and omissions:

1. Pursuant to Coastal Act Section 30514, the City Council, after holding a duly noticed public hearing, must approve by adoption of an Ordinance, a Resolution submitting the Main Street Bridge Preservation Act to the Coastal Commission. This has not happened. Submittal of the MSBPA by letter from City Staff does not fulfill this requirement.
2. The full text of the MSBPA is not included with Mr. Ambo's letter.
3. Mr. Ambo's letter, in the first sentence, requests the Coastal Commission to "amend the certified LCP Implementation Plan to implement Measure F". First, Measure F was a materially different ballot measure, placed on the ballot by the City Council and approved by the City's voters on June 3, 2014. Second, the Main Street Bridge Preservation Act was duly adopted by the City Council two weeks after the election rather than placing it on the November 4, 2014 ballot. As such, it supersedes Measure F. Neither Mr. Ambo's letter nor the HMB Planning Commission's recommendation includes this information. Third, the Coastal Commission can only certify a proposed Amendment as part of the Amendment process.
4. Mr. Ambo's letter only references the LCP-IP, when in fact, the MSBPA also amended LUP-LCP Visual Resources Policy 7-8.

David C. Eblovi
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March 09, 2015

Stephanie Rexing, Coastal Planner,
California Coastal Commission
North Central Coast District Office
41 Fremont Street Suite 2000
San Francisco, CA 94105
Via email transmittal

Subject: *City of Half Moon Bay Local Coastal (LCP) Implementation Plan (IP) Amendment No. LCP-2-HMB-14-0845-2 (Measure F/Main Street Bridge Preservation Act)*

Dear Stephanie,

This is my second letter to you in five days, and the reason for this letter is that another Citizen working on this problem with me in Half Moon Bay has discovered something which sheds a great deal of light on what happened in the latter part of last year. I am going to treat this letter as a companion to my previous letter and will leave out all relevant background material as a result.

When the City Council of Half Moon Bay passed the Citizen's Main Street Bridge Preservation Act into law on June 17th, 2014, it superseded the previous iteration (Measure F) as a matter of law. The fact that both initiatives were similar in material content doesn't alter the fact that the governing document after June 17, 2014, was the Main Street Bridge Preservation act (MSBPA) as submitted by the Citizens of Half Moon Bay.

As you know the MSBPA required the amendment of Section 18.39.045, with the addition of specific verbiage. Notwithstanding this fact the City allowed a series of proposed amendments to be certified by the Coastal Commission on July 11th, 2014. This certification was in direct conflict with the MSBPA as passed by the City Council of HMB just three weeks prior to the Commission meeting.

What we have now discovered is that the Planning Commission met on September 23rd, 2014, wherein they approved a motion to "adopt Resolution No. P-20-14, recommending that the City Council adopt an ordinance codifying Measure F, the Main Street Bridge Preservation Act by amending Policy 7-8 "VISUAL RESOURCES" of the Local Coastal Program Land Use Plan (LCP/LUP) and Chapter 18.39 "HISTORIC RESOURCES PRESERVATION" of the Zoning Code."

The attached "Exhibit A" said the following:

2. Chapter 18.39 "Historic Resources Preservation" of the Zoning Code is amended as follows:

a. Section 18.39.005 is added to Zoning Code Chapter 18.39 "Historic Resources Preservation", to read as follows:

"18.39.005 Main Street Bridge Preservation Act (Measure F)

Consistent with the mandate of Measure F, the Main Street Bridge Preservation Act, it is the policy of the city to preserve intact the Main Street Bridge's historical, visual and physical integrity (including appearance and character). Notwithstanding any other provisions of this Title or Chapter 14.38 Historic Resources Preservation, the demolition or physical expansion of the Main Street Bridge is prohibited, unless preservation of the Main Street Bridge and its historical, visual and physical integrity is rejected and such demolition or physical expansion is authorized by the City Council and approved by at least a majority of the City's voting electorate in a subsequent ballot measure at a general or special election at which such a measure is submitted."

Issues:

There are numerous issues with this approval by the Planning Department, as well as the information which was presented to them for consideration.

1. The Act which is governing law is not "Measure F" it is the MSBPA, meaning that the Planning Commission was considering amendments to the Municipal Code which had already been superseded.
2. Neither Act contained the verbiage which was presented to the Planning Commission
3. The Planning Director- at the Direction of the City, or the City Attorney, altered the wording of the Amendment as specified in the Act itself. Changing the modified Section from 18.39.045 (where it would sit in a contextually appropriate place) to an abandoned 18.30.005 was done with no Citizen or public notice or approval whatsoever.
4. The City had not yet codified the changes approved by the Coastal Commission Back on July 11th, these would be codified by the City Council on October 7th, roughly two weeks after the Planning Commission's approval. This means that it would not have been too late to return to the Coastal Commission for just that one section of proposed alterations to amend them properly and as required by law.
5. Instead the City improperly altered the text of the MSBPA (in addition to representing it as Measure F) presumably so that it would not be in conflict with the amendments the City Council would codify on October 7th, 2014.

The details as described above are enormous, and clearly highlight a deliberate attempt by the City to hide the fact that the MSBPA as passed by the voters was not going to be implemented as intended, and further that the individuals responsible for this were fully aware of what they were doing prior to September 23, 2014.

On December 5, 2014, the City of Half Moon Bay's Planning Director forwarded you a packet as follows: "City of Half Moon Bay, Measure F – Main Street Bridge Preservation Act Local Coastal Plan – Implementation Plan Amendments."

Issues:

There are at least two issues with this document and its associated attachments.

The first issue is that once again the City is misrepresenting the MSBPA as "Measure F," which is not accurate, and which serves to cover the actions of the City, as well as providing the legal basis for the specious citation that the City offers in an attempt to coerce the Coastal Commission into acting on incomplete knowledge, and without further review.

But it is the second issue which is most profound, and which has motivated me to write you again today: The verbiage in the cover letter, and "Attachment A" are clearly intended to deceive the Coastal Commission into believing that the Amendment proposed to 18.39.005 was what was approved by the Voters when they voted on Measure F. Not only is this categorically false, this argument fails for two very simple reasons:

1. Measure F is not the governing law in question.
2. The text of the MSBPA does not in fact amend 18.39.005, but instead amends 18.39.045, a fact which the City was obviously well aware of when they forwarded this packet to you.

The reasoning behind the City's actions can probably be seen in the second paragraph, wherein Mr. Ambo goes to considerable length to support his contention that an obscure court case from 1995 supported a de-facto rubber stamp approval by the Coastal Commission. (Because it addressed a "Citizen's initiative, which had been duly voted on by the people. The real MSBPA was never voted on by the people- it was enacted into law by the City Council after it had met the requirements to be on the November Ballot, thus the case citation would not apply.)

Providing further evidence of the City's ill intent is the fact that none of the original text of either Act was included in the application packet submitted to the Coastal Commission by the City. Thus there was no way for the Coastal Commission to either verify or validate (had you been even remotely aware of what had just been done) whether or not the amendments as proposed were accurate, or even from the right piece of governing legislation.

Hopefully this letter will serve you and your colleagues in better determining where we collectively go from here. It is abundantly clear that the City of Half Moon Bay has acted in very bad faith, both with the Coastal Commission and with the people of HMB.

Thank you very much,

David C. Eblovi

5. Mr. Ambo's letter cites First Appellate Court of Appeal decision ("San Mateo County Coastal Landowner's Association v. County of San Mateo et. al"). This decision is not relevant to the process of submittal of voter-approved LCP Amendments per Measure F (which is significantly different from the citizen-sponsored initiative) and/or the City's subsequent adoption two weeks later of the citizen's initiative ("Main Street Bridge Preservation Act"). In the case of Measure A, the Coastal Protection Initiative of 1986, the voters of San Mateo County on November 4, 1986, approved Measure A. Three days later, the San Mateo County Board of Supervisors duly began the process of submitting the LCP-LUP Amendments to the Coastal Commission for certification. Please see the attached Memo to the Board of Supervisors by Michael Murphy, then Deputy District Attorney, dated November 7, 1986. I was one of the Proponents of Measure A, and my organization, Committee for Green Foothills, along with Sierra Club, Natural Resources Defense Council, League for Coastal Protection and Robert Cevalasco, a coast side farmer and landowner, intervened in opposition to the petition by the San Mateo County Coastal Landowners Association et al. So I am quite familiar with this decision. The Coastal Commission was also a Defendant in this case.

Finally, it is entirely baffling to me and many others why Half Moon Bay City officials did not take the necessary action to submit the LCP Amendments to the California Coastal Commission within the required 60 days after approval of Measure F by the voters on June 3, and/or the subsequent approval by the City Council of the Main Street Bridge Preservation Act on June 17.

I hope this helps fill in the gaps of information that you need. Please feel free to call me or email if you have any questions. My home/office phone is 650-854-0449.

Sincerely,

Lennie Roberts, San Mateo County Legislative Advocate, Committee for Green Foothills

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March 04, 2015

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Via email transmittal

Subject: *City of Half Moon Bay Local Coastal (LCP) Implementation Plan (IP) Amendment No. LCP-2-HMB-14-0845-2 (Measure F/Main Street Bridge Preservation Act)*

Dear Stephanie,

I am writing you in reference to the Amendment referenced above as one of the primary authors and signatories to the original citizen-sponsored Main Street Bridge Preservation Act. I am deeply concerned that Half Moon Bay has erred in substantial form in the application of this act as passed into law by the City Council on June 17, 2014, and this letter is intended to clarify for the Coastal Commission the significant legal issues that are present in the proposed Amendment.

Background:

On February 10, 2014 three citizens presented the City of Half Moon Bay with the Main Street Bridge Preservation Act, a citizen sponsored initiative which would proscribe the demolition of the Main Street Bridge without the approval of a majority of Half Moon Bay's voters.

Within the month the City Council of Half Moon Bay had co-opted the initiative, placing an identically named ballot measure on the June 4th 2014 election ballot. This ballot measure was substantially the same as the Main Street Bridge Preservation Act, although there were minor and possibly significant differences between the two documents. In any case the Act passed with a 67 percent majority in the June election, and in the interim the Citizen's initiative had garnered the required number of signatures, and was to be placed on the November Ballot, or alternatively could be enacted into law by the City Council.

On June 17th, 2014 the City Council passed the Main Street Bridge Preservation Act into law, although the actual act that was passed into law remains in doubt, which is the first problem identified herein. While the two acts have identical titles, and similar language, the fact is that the voter-approved act is not identical to the citizen-sponsored act, throwing the identity of the actual enforceable act into serious question. (The fact that the "spirit" of the two acts is similar, and that their wording is also substantively similar does not change or alter the fact that manipulation of such language by the legislative body is not permitted by law...)

The second, (and far more significant) issue was created when the City, at the direction of the Council, continued throughout the first six months of last year to pursue changes to the LCP, specifically in Title 18.39 et seq. These changes would eliminate the very Section which both Main Street Bridge Preservation Acts enumerated and amended by name. In other words: At the same time that the City was working to place the ballot measure on the June Ballot- to amend Title 18.39, the City was working in parallel with the Coastal Commission to eliminate Title 18.39 from the LCP/IP entirely.

The City codified these changes to the LCP on October 7, 2014, after approval by the Coastal Commission on July 11, 2014. (Thereby removing Title 18 Section 39 from existence, the very Section which the same Council had passed into law back in June of the same year.)

It is these changes and deletions which have placed the entire legality of the current proposed Amendment into serious question.

Analysis:

It is very clear that what has happened in this case can be broken down into a very few easily digested parts.

1. The Citizens, or the City Council, or both, enacted a law amending Half Moon Bay's Municipal Code and the LCP, specifically citing the title, and section, and contents, to reflect the will of the people.
2. Before, during, and after this process the City was working aggressively and specifically to remove the applicable sections of the Municipal Code, transferring some portions of them to another Title of the Municipal Code entirely. (Title 14)
3. As a result of the deliberate actions by the City it is no longer possible to apply the amendments mandated by either Main Street Bridge Preservation Act to the Municipal Code and/or the LCP, as the relevant sections of the Municipal Code to be amended no longer exist.

The legal analysis of this sequence of events is fairly simple to explain. California has a system of government by initiative, and when the Citizens enact or approve a law, that initiative must state specifically the sections of relevant Code that are to be changed, as well as the **exact wording** that must be changed, amended, added, or deleted.

It is incongruous to offer that after such an initiative has been enacted the legislative body responsible for the statutes in question can simply move them around, or frankly change them in any material way. I have been able to find no legally supportive documentation or case-law which would support the concept of the representative legislative body altering an approved statutory initiative.

Further, that to offer that the changes "will have the same legal effect" and are thus OK is both specious and errant. By moving a section of law from one section (or Title) to another all of the relevant supporting and underlying Code is changed, rendering (potentially) the entire meaning, enforceability, or other relevancies of the amendments to be utterly useless. (Or at the very least different from what the voters clearly intended...)

For those reasons I believe that the City of Half Moon Bay has painted itself into a corner, and specifically our Staff and City Attorney erred in significant ways when they chose to simultaneously place an initiative on the ballot while working to remove the relevant code that the initiative would amend from existence.

Whether this was a duplicitous act or not is irrelevant at this point in time. What is relevant, and the reason for this letter, is that the proposed Amendment offered by the City is simply unsupportable and legally unsustainable as it is based on a completely flawed and illogical set of legal assumptions which simply do not withstand any detailed scrutiny. To waste any more Coastal Commission Staff time on this irrevocably flawed Amendment is, and would be, a poor use of our collective resources.

The only way that this entire problem can be resolved is from within the City of Half Moon Bay. I have literally no idea how that can or should happen, but The City and Staff of Half Moon Bay created this logical and legal conundrum, and it is not up to the Coastal Commission to approve or deny a legally unsustainable Amendment to the LCP- which this Amendment very clearly is. Thus I am asking you herein to reject the submission and return it to the City until such time as a legally sustainable submission may be made to the CCC for a proper and timely response.

Thank you very much,

David C. Eblövi