



# CITY OF CARMEL-BY-THE-SEA

## CITY COUNCIL AGENDA

Mayor Steve Dallas  
Council Members Carolyn Hardy  
Jan Reimers, Bobby Richards, and Carrie Theis

All meetings are held in the City Council Chambers  
East Side of Monte Verde Street  
Between Ocean and 7th Avenues

Contact: 831.620.2000 [www.ci.carmel.ca.us/carmel](http://www.ci.carmel.ca.us/carmel)

### SPECIAL MEETING

### THURSDAY, June 30, 2016

### 9:00 A.M.

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **PLEDGE OF ALLEGIANCE**

4. **PUBLIC APPEARANCES** Members of the public are entitled to speak on matters of municipal concern not on the agenda during Public Appearances. Each person's comments shall be limited to 3 minutes, or as otherwise established by the City Council. Matters not appearing on the City Council's agenda will not receive action at this meeting but may be referred to staff for a future meeting. Persons are not required to give their names, but it is helpful for speakers to state their names in order that the City Clerk may identify them in the minutes of the meeting.

5. **ANNOUNCEMENTS** Announcements from City Council Members (Council Members may ask a question for clarification, make an announcement or report on his or her activities), City Administrator, and/or the City Attorney.

**CONSENT AGENDA** Items on the consent agenda are routine in nature and do not require discussion or independent action. Members of the Council or the public may ask that any items be considered individually for purposes of Council discussion and/ or for public comment. Unless that is done, one motion may be used to adopt all recommended actions.

6. [Authorization of the City Administrator to Execute an Amendment to the Agreement dated July 2, 2013 between the City and Sunset Cultural Center Inc. for Managing and Operating the Sunset Center for the Term of July 1, 2016 to June 30, 2017. \(p. 3\)](#)

**PUBLIC HEARINGS** Public Hearings consist of Zoning amendments, General Plan amendments, appeals of Commission decisions and other State-mandated items. If the Public Hearing is an appeal, appellants are allowed a total of 10 minutes to speak on their own behalf after the staff report and at the close of public comment in order to have an opportunity to rebut public comments. Other speakers will be allowed 3 minutes, or as otherwise established by the City Council.

7. [Beach Fires Revised Pilot Program Coastal Development Permit Approval. \(p. 41\)](#)

CLOSED SESSION

8. LITIGATION ONE MATTER  
BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA  
Order Instituting Investigation and Order to Show Cause on the Commission's Own  
Motion into the Operations and Practices of Pacific Gas and Electric Company with  
respect to Facilities Records for its Natural Gas Distribution System Pipelines.  
Investigation 14-11-008 (Filed November 20, 2014)

FUTURE AGENDA ITEMS

ADJOURNMENT

This agenda was posted at City Hall, Monte Verde Street between Ocean Avenue and 7<sup>th</sup> Avenue, Harrison Memorial Library, NE corner of Ocean Avenue and Lincoln Street, and the Carmel-by-the-Sea Post Office, 5<sup>th</sup> Avenue between Dolores Street and San Carlos Street, and the City's webpage <http://www.ci.carmel.ca.us/carmel/> on Monday, June 27, 2016 in accordance with the applicable legal requirements.

  
Ashlee Wright, City Clerk

SUPPLEMENTAL MATERIAL RECEIVED AFTER THE POSTING OF THE AGENDA

Any supplemental writings or documents distributed to a majority of the City Council regarding any item on this agenda, after the posting of the agenda and received by 12:00PM the day of the Council meeting, will be available for public review in the City Clerk's Office located at City Hall, Monte Verde Street between Ocean Avenue and 7<sup>th</sup> Avenue, during normal business hours. In addition, such writings or documents will be available for public review at the respective meeting. Documents or and writings received at the meeting or after 12:00PM the day of the meeting will be made available for public review the following business day.

SPECIAL NOTICES TO PUBLIC

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at 831-620-2007 at least 48 hours prior to the meeting to ensure that reasonable arrangements can be made to provide accessibility to the meeting (28CFR 35.102-35.104 ADA Title JJ).

CHALLENGING DECISIONS OF CITY ENTITIES The time limit within which to commence any lawsuit or legal challenge to any quasi-judicative decision made by the City of Carmel-by-the-Sea is governed by Section 1094.6 of the Code of Civil Procedure, unless a shorter limitation period is specified by any other provision, including without limitation Government Code section 65009 applicable to many land use and zoning decisions, Government Code section 66499.37 applicable to the Subdivision Map Act, and Public Resources Code section 21167 applicable to the California Environmental Quality Act (CEQA). Under Section 1094.6, any lawsuit or legal challenge to any quasi-judicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred. Government Code section 65009 and 66499.37, and Public Resources Code section 21167, impose shorter limitations periods and requirements, including timely service in addition to filing. If a person wishes to challenge the above actions in court, they may be limited to raising only those issues they or someone else raised at the meeting described in this notice, or in written correspondence delivered to the City of Carmel-by-the-Sea, at or prior to the meeting. In addition, judicial challenge may be limited or barred where the interested party has not sought and exhausted all available administrative remedies.



# CITY OF CARMEL-BY-THE-SEA

## AGENDA BILL

AB 1143  
June 30, 2016  
Consent Calendar

**TO:** Honorable Mayor and Members of the City Council  
Chip Rerig, City Administrator

**FROM:** Sharon Friedrichsen, Director of Budget and Contracts

**SUBJECT:** Authorization of the City Administrator to Execute an Amendment to the Agreement dated July 2, 2013 between the City and Sunset Cultural Center Inc. for Managing and Operating the Sunset Center for the Term of July 1, 2016 to June 30, 2017

<b>AMOUNT OF EXPENDITURE</b>	\$ 0
<b>AMOUNT BUDGETED</b>	\$ 0
<b>APPROPRIATION REQUIRED</b>	\$ 0

### RECOMMENDATION

Adopt the resolution authorizing the City Administrator to execute an amendment to the Agreement dated July 2, 2013 between the City of Carmel-by-the-Sea and Sunset Cultural Center, Inc. for managing and operating the Sunset Center for the term of July 1, 2016 through June 30, 2017.

### SUMMARY

The City and Sunset Cultural Center, Inc. (SCC) entered into an Agreement for the purpose of managing and operating the Sunset Center on July 2, 2013. Said Agreement expires on June 30, 2016. In order to allow for the continuity of Sunset Center operations, including preserving scheduled performances and events, it is recommended that Council authorize the City Administrator to execute an amendment to the Agreement to extend the term of the Agreement through June 30, 2017. This recommended action allows the City and SCC additional time to develop a new long term agreement.

### PRIOR CITY COUNCIL ACTION

Council adopted resolution 2013-32 on July 2, 2013 authorizing a three year agreement with SCC. Council received community input on a new agreement with **SEC** on November 2, 2015.

### ATTACHMENTS

1. Resolution
2. Agreement dated July 2, 2013

**APPROVED:**

\_\_\_\_\_ Date: \_\_\_\_\_

Chip Rerig, City Administrator

RESOLUTION 2016-\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA  
AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE AN AMENDMENT TO THE  
AGREEMENT BETWEEN THE CITY AND SUNSET CULTURAL CENTER, INC.  
FOR MANAGING AND OPERATING THE SUNSET CENTER FOR THE TERM OF  
JULY 1, 2016 TO JUNE 30, 2017

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WHEREAS, the City owns property located between San Carlos and Mission Streets, and between 8<sup>th</sup> and 10<sup>th</sup> Avenues, Carmel-by-the-Sea, California, known as the Sunset Community and Cultural Center ("Sunset Center"); and

WHEREAS, the Sunset Cultural Center, Inc. ("SCC") has been organized as a California nonprofit corporation for the express purpose of managing and operating the Sunset Center and has operated the facility under a written agreement with the City since 2003, including the current agreement approved by Council on July 2, 2013, by Resolution 2013-32; and

WHEREAS, the City and SCC Trustees have recently entered into discussions to develop a revised agreement that reflects the current and evolving needs of both parties for the ultimate benefit of the community and Sunset Center users; and

WHEREAS, the current agreement expires on June 30, 2016, and both parties desire the Sunset Center to continue to be managed as a place for public entertainment, meetings and cultural events, and to minimize the impact to Sunset Center operations and the community while ongoing discussions on a long-term agreement continue.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA does hereby:

Authorize the City Administrator to execute an Amendment to the Agreement between the City and the Sunset Cultural Center, Inc. for managing and operating the Sunset Center for the term of July 1, 2016, to June 30, 2017, as shown in the attached Exhibit A.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF CARMEL-BY-THE-SEA on this 30<sup>th</sup> day of June 2016 by the following roll call vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

SIGNED:

ATTEST:

\_\_\_\_\_  
Steve G. Dallas, MAYOR

\_\_\_\_\_  
Ashlee Wright  
City Clerk

**Exhibit A**

**Amendment to Agreement**

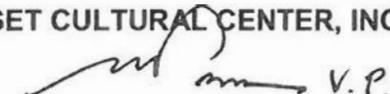
1. This amendment (hereinafter "Amendment") is made by **City of Carmel-by-the-Sea** and **Sunset Cultural Center, Inc.**, parties to the Agreement between the City of Carmel-by-the-Sea and Sunset Cultural Center, Inc. executed on July 2, 2013 (hereinafter "Agreement").

2. Section 2.10, of the Agreement entitled, "Agreement Term", is hereby amended as follows:

The term of this Amendment to the Agreement shall be for a period of one (1) year commencing July 1, 2016, and terminating on June 30, 2017, unless terminated sooner in accordance with the provisions of the Agreement.

3. Except as set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms. If there is conflict between this Amendment and the Agreement, or any previous amendment, the terms of this Amendment shall prevail.

**SUNSET CULTURAL CENTER, INC:**

By:  V.P.  
Officer, Sunset Cultural Center, Inc.

Date: 7 / 13 / 16

**CITY:**

By: \_\_\_\_\_  
Chip Rerig, City Administrator

Date: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Ashlee Wright, City Clerk

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Donald G. Freeman, City Attorney

Date: \_\_\_\_\_

**AGREEMENT**

**between**

**CITY OF CARMEL-BY-THE-SEA,**

**A Municipal Corporation**

**and**

**SUNSET CULTURAL CENTER,**

**A California Nonprofit Corporation**

**July 1, 2013**

## **AGREEMENT**

THIS AGREEMENT ("Agreement") is entered into on \_\_\_\_\_, 2013, by and between the CITY OF CARMEL-BY-THE-SEA, a municipal corporation ("CITY"); and SUNSET CULTURAL CENTER INC., a California nonprofit corporation ("SCC").

### **RECITALS:**

WHEREAS, CITY owns property and improvements located between San Carlos Street and Mission Street, and between 8<sup>th</sup> and 10<sup>th</sup> Avenues, Carmel-by-the-Sea, California, known as Sunset Community and Cultural Center ("Sunset Center") which contains an auditorium ("the Theater"), particularly described in **EXHIBIT A** attached hereto and incorporated herein by this reference; and

WHEREAS, SCC has been organized as a California nonprofit corporation for the express purpose of managing and operating Sunset Center; and

WHEREAS, in general it is important that the SCC be operated and managed as a place for public, cultural activities, entertainment, community, and conference events so SCC serves as an economic and cultural stimulant for the community; and

WHEREAS, Sunset Center is an economic driver bringing visitors to the community for events and activities thereby fulfilling an important public purpose; and

WHEREAS, both parties desire that Sunset Center be operated and managed as a multi-purpose venue for public and private, cultural and social events, meetings, entertainment and community events in accordance with the provisions, terms, and conditions of this Agreement, and in a manner consistent with the important public purpose, so that Sunset Center will serve as an economic and cultural stimulant for the community, the people of Carmel and its environs; and

WHEREAS, SCC is uniquely and favorably constituted and situated to supply and demonstrate the necessary expertise, and operation and management skills, for the purpose of operating and managing Sunset Center; and

WHEREAS, SCC, through its volunteer Board of Trustees, has the capacity to provide a rich and varied citizen participation to promote the use of Sunset Center in a manner consistent with the community expectation for a wide range of cultural and community uses; and

WHEREAS, it is the intent of CITY and SCC to assure the most efficient, responsive and economical operation and management of Sunset Center consistent with the needs of the community; and

WHEREAS, City and SCC previously entered into an Agreement dated June 8, 2004 ("the First Agreement") which by its terms concludes on June 30, 2013; and

WHEREAS, neither party is in breach of the First Agreement; and

WHEREAS, the City and SCC desire to, upon termination of the First Agreement, extend the relationship created by the First Agreement upon the terms and conditions set forth herein;

NOW, THEREFORE, for and in consideration of the mutual covenants, terms, provisions, conditions and limitations herein set forth, the parties agree as follows:

#### ARTICLE 1 DEFINITIONS

For purposes of the Agreement, words not herein specifically defined shall be given their normal and usual English language meaning. The following terms, phrases, words, and their derivations shall have the meaning given herein. References to governmental entities (whether persons or entities) refer to those entities or their successors in authority.

1.1 Definitions. Certain terms in this Agreement are specifically defined and set forth as follows:

1.1.1 Agreement. Agreement means this Agreement, as it may be amended, restated or supplemented in writing from time to time in accordance with the terms hereof and includes all exhibits and schedules hereto. References to Sections or Exhibits are to this Agreement unless otherwise qualified.

**1.1.2 The Board of Trustees** shall mean those persons acting as Trustees of SCC as of the Effective Date and such substitutions, replacements, and new Trustees as shall be selected from time to time by the then sitting Board of Trustees in accordance with the By-Laws of SCC.

**1.1.3 City Administrator** means the City Administrator of Carmel-by-the-Sea in position at the relevant time.

**1.1.4 City Council.** The City Council of the City of Carmel-by-the-Sea.

**1.1.5 Conference Event.** A meeting or series of meetings attended by multiple people utilizing the Facilities for consultation, exchange of information, or discussion.

**1.1.6 Conference Facilities.** All rooms available for utilization by the public, outside individuals or organizations.

**1.1.7 Endowment.** Endowment, Endowment fund, or endowment campaign shall mean a fundraising activity and goal to establish an endowment to provide stable and permanent funding for the operation, capital preservation and improvement of the Facility.

**1.1.8 Executive Director** shall mean the person, regardless of name, selected, engaged and authorized by the SCC's Board of Trustees to act as the chief executive officer of the Sunset Center.

**1.1.9 Facility.** Facility are the grounds and improvements known as Sunset Community and Cultural Center (hereinafter "Sunset Center") whose principal building, including, but not limited to, the auditorium, lobby, meeting rooms, outside plaza and box office parking lot which is commonly known as the Sunset Theater (hereinafter "the Theater"),

**1.1.10 Fiscal Year.** A one year period beginning July 1 and ending the following June 30.

**I. I. II Improvements.** "Improvements" shall mean and include the structures and all other improvements now or hereafter affixed to the Facility.

**1.1.12 Hospitality Improvement District (HID).** The Carmel Hospitality Improvement District established by CITY in 2012 as amended from time to time.

1.1.13 Law. "Law" or "Laws" shall include any judicial decision, statute, constitution, ordinance, resolution, regulation, rule, administrative order, or other requirement of any municipal, county, state, federal or other governmental agency or authority having jurisdiction over the parties hereof or affecting or governing the Facility, in effect either at the effective date hereof or at any time during the Term.

1.1.14 Manage. Manage, or any derivation thereof, shall mean to direct, control, operate, maintain, govern, determine, oversee, and administer the operations of the Facility in accordance and compliance with the terms and conditions of this Agreement and all applicable laws, rules, and regulations.

1.1.15 North Wing. Conference Room facilities located at the north end of the Facility.

1.1.16 Parties means CITY and SCC collectively.

1.1.17 Party means CITY and SEC individually.

1.1.18 Person means and includes natural persons, corporations, limited partnerships, general partnerships, joint stock companies, joint ventures, associations, limited liability companies, limited liability partnerships, trusts, land trusts, business trusts, or other organizations, whether or not legal entities.

1.1.19 Premises shall mean the entire two block area of the Sunset Community and Cultural Center located along San Carlos and Mission Streets, between 8<sup>th</sup> Avenue and 10<sup>th</sup> Avenue, Carmel-by-the-Sea, California, including the Theater and other buildings more particularly described in Exhibit A, but excluding the CITY parking lot located at the Sunset Center to the north of the buildings on the Premises ("City Parking Lot").

1.1.20 First Agreement. The First Agreement is the Agreement between CITY and SEC dated June 8, 2004, ending June 30, 2013.

1.1.21 Operator Improvements. Operator Improvements means all property (such as equipment, fixtures and furnishings, whether the property is physically affixed to the Facility or not) which is used in the scheduling or presentation of events at the Facility, including, but not limited to, lighting, sound system, curtains, seating, carpeting, phone system, lift, piano, stage rigging, and

computerized box office system. Operator Improvements does not mean the structure and core of the Facility; HVAC, plumbing, electrical and mechanical systems; elevator; and stage.

## ARTICLE 2

### PURPOSE, SERVICES, DESCRIPTION OF FACILITY, TERM OF AGREEMENT

2.1 Incorporation of the Recitals. The Parties acknowledge and agree that the above stated recitals are true and correct to the best of their knowledge and are incorporated as though fully set forth herein.

2.2 General. The CITY requires the services of SCC to operate and manage the Facility. The purpose of this agreement is to set forth the rights, duties and obligations of the Parties with regard to operation and management of the Facility.

2.3 Principal Function. The principal function of SCC shall be to operate and manage, the Facility as a place for public cultural activities, entertainment, community and conference events to ensure the long-term economic stability of the Facility.

2.4 Strategic Plan. SCC shall develop, and in all times have in effect, a strategic plan that is revised and updated periodically by the SCC Board of Trustees which provides for such matters as necessary to fulfill the purposes of this Agreement. The intent of the strategic plan is to keep the Facility and SCC financially and operationally vibrant in service to the citizens of Carmel-by-the-Sea. The plan shall be regularly reviewed and updated by SCC and shall be submitted to the City Administrator for review and comment prior to adoption or amendment by the SCC Board.

2.5 Services. CITY and SCC hereby agree that SCC shall provide to CITY the services hereinafter set forth, subject to the oversight and direction of CITY as set forth herein

2.6 Reservations. CITY reserves to itself the right, from time to time, to grant, without the consent of SCC, such easements, rights and dedications that CITY deems necessary, and to cause the recordation of parcel maps and restrictions, so long as such easements, rights, dedications, maps and restrictions do not unreasonably interfere with the permitted use of the Facility by SCC. SCC agrees, if requested by CITY, to sign any documents to effectuate any such easement rights, dedications, maps or restrictions.

2.7 Parking Area. CITY agrees that on any night a performance is scheduled at Sunset Center, the City Parking Lot will be available for free public parking after 6:00 p.m.

2.8 Condition of Facility. CITY and SCC acknowledge that the Facility consist of the Theater and adjacent spaces and other buildings in various conditions of maintenance and repair.

2.9 Effective Date. This effective date of this Agreement shall be July 1, 2013.

2.10 Agreement Term. The term of this Agreement ("Term") shall be for a period of three (3) years terminating on June 30, 2016, unless terminated sooner in accordance with the provisions of this Agreement.

2.11 Option to Extend Term. At the end of the Term, CITY shall have the option to extend the Term for three (3) additional years. If CITY determines not to exercise the option to extend CITY shall notify SCC not less than 180 days prior to the end of the Agreement Term. SCC reserves the right to decline acceptance of a second term as Operator and Manager of Facility.

### ARTICLE 3

#### OPERATION AND MANAGEMENT

3.1 City Contracts Out Operation and Management Functions. Subject to the terms, covenants and conditions set forth in this Agreement, and also subject to all recorded covenants, conditions and restrictions, utility easements, other recorded private easements, reciprocal easement agreements and any other recorded instruments affecting the use of the Facility as they may exist as of the date of this Agreement, CITY hereby contracts with SCC to operate and manage the Facility. SCC agrees, in performing the Operation and Management Functions, to act in good faith in the best interests of the CITY as such interests are reasonably understood by SCC.

3.1.1 CITY goals and objectives. The goals and objectives of the CITY concerning the operation and management of the Facility are as follows: (i) Customer focus: Attentive and responsive to all who interact with Sunset; (ii) Measurable outcomes: Systematic collection and reporting of information demonstrating success; (iii) Strategic partner: SCC is a key partner in the CITY'S economic development strategy; with the goal of the Facility being a Community centerpiece serving as the cultural and event leader of the CITY.

*DPA*  
12/10

3.2 **Employees.** SCC shall take all necessary steps to ensure that it contracts, employs, and supervises qualified labor required to fulfill the terms and conditions of this Agreement. SCC employees shall not for any purpose be considered to be employees of the CITY; and SCC shall be solely responsible for their supervision and daily direction and control and for setting, and paying as an operating expense their compensation and any employee benefits.

3.3 **Operation and Management.** SCC shall exclusively operate and manage the Facility in accordance with the terms and conditions of this Agreement and SCC's Strategic Plan, policies and procedures.

3.4 **Managing Authority.** SCC shall be the sole Operator and Manager of the Facility and shall do all things necessary for such operation and management in promoting Sunset Center to attract performances and to increase utilization of the Theater and meeting room and office rentals, with the goal of serving the community and decreasing CITY's subsidy of Sunset Center. These include, but are not limited to, approving or denying requests for the use of Facility; adopting, without limitation, rental and use fees, ticket pricing and policies; and negotiating all employment relationships and union agreements. SCC shall use its discretion and shall have full control of all aspects of the operation, management and use of the Facility including, without limitation, establishing, implementing and publishing its booking, presentation and rental policies, operating concessions on its own behalf or through others, determining its procedures, rates and fees (including, without limitation, discounts and free usage) for any and all uses of the Facility. SCC shall diligently perform any and all services with the objective that all persons who contact SCC or patronize the Facility shall be treated in an orderly, safe, responsive, and courteous manner.

3.5 **Board of Trustees.** Subject to the terms of this Agreement, the Board of Trustees shall adopt all policies regarding the use, operation, management, and promotion of Sunset Center. The Board of Trustees shall not adopt any policy or take any action regarding the operation and management of Sunset Center which provides a direct or indirect financial benefit to any individual member of the Board of Trustees, or any entity which any such member represents, directly or indirectly, owns or controls or with which a member is otherwise directly or indirectly affiliated. Not less than one-third of the trustees serving on the Board shall be residents of Carmel-by-the-Sea; and an additional one-third shall be residents of Monterey County. The Board of Trustees shall provide the CITY with a current roster of Board memberships. In the selection, the Board shall seek a diversity of perspective and experience.

3.6 SCC Board Development Committee. The SCC Board Development Committee shall generate contributed income and raise capital endowment money for the purposes of establishing, maintaining and funding the Endowment. Any donations or gifts to SCC shall be used to promote programs and improve facilities as outlined by SCC's specific fundraising campaigns, and related proceeds shall be held in restricted accounts that support such activities as outlined in SCC's campaigns.

3.7 Executive Director. The Executive Director shall be an employee of SCC, and shall report to and serve at the pleasure of the SCC Board of Trustees.

3.8 Budget. After adoption by the Board, SCC shall submit its annual budget to the City.

3.9 Reporting and Coordination between the Parties. Notwithstanding reporting requirements in 5.10.4, SCC shall report its activities, financial data, indicators, and condition to the CITY in the following ways:

3.9.1 Annual Plan. SCC shall provide to the CITY on or before April 1 of each year an annual operation and management plan which shall include goals and objectives and the annual operating budget described in 5.2 for the next Fiscal Year. The annual plan shall include information regarding SCC's anticipated operations for such Fiscal Year, including planned operating maintenance activities by SCC, a five-year plan for requested capital improvements and capital equipment purchases and an anticipated budget therefor, anticipated events at the Facility, anticipated marketing, advertising and promotional activities, and planned equipment and furnishings purchases. The annual plan shall be subject to review, revision and modification by the CITY, with SCC's consideration. Programs supported by SCC shall directly facilitate achieving the goals and objectives of the CITY as stated herein.

3.9.2 Quarterly Contract Compliance. By the 25<sup>th</sup> day of the month following the end of a fiscal quarter beginning on the 25<sup>th</sup> of July 2013 SCC shall provide to the CITY a report presented at a meeting with the City Administrator in a form approved by the CITY setting out the anticipated activities for the upcoming quarter and reporting on the prior quarter's activities, and finances, discussing contract compliance issues.

3.9.3 Performance Monitoring. The CITY will monitor the performance of SCC against the goals and performance standards required herein. SCC shall develop key performance measures indicating quantitative outcomes relative to the SCC goals and objectives and, at the discretion

of the City Administrator, report to the City Council on a quarterly basis the operation and performance of the Sunset Center. SCC goals and objectives should align with, and be guided by, CITY goals and objectives. Mutually agreed upon performance measures important for the review of operations and activities and indicative of contract goals are included in Exhibit B. Substandard performance as outlined by this Agreement and further specified in Exhibit B will constitute non-compliance. If action to correct such substandard performance is not taken by SCC within sixty (60) days after being notified by the CITY in writing, contract termination procedures may be initiated.

3.9.4 CITY and SCC principals shall commit to participating in an annual strategic workshop session together, schedule and agenda to be determined by City Administrator and SCC Executive Director.

#### ARTICLE 4

##### AUTHORIZED USE OF FACILITY

4.1 Permitted Uses. Subject to the terms, covenants and conditions of this Agreement, SCC shall use the Facility solely for the operation and management of the Facility for cultural events, performing arts presentations, educational programs, presentations, films, meetings/conferences, general community purposes, SCC fundraising endeavors, rehearsals and other related activities, SCC offices, and such other activities that are incidental to the foregoing. SCC shall keep the Facility in a neat, clean, attractive and orderly condition, free of odors, dust, debris or nuisances and prohibit unnecessary, excessive and annoying noises. SCC may use the Facility to engage in concession and catering activity only as provided in this Agreement. SCC may use the Facility for additional purposes with the prior written approval of the City Administrator.

#### 4.2 Concessions and Catering Activity.

4.2.1 Definitions. As used in this section, unless the context clearly requires a different meaning,

4.2.1.1 "Concession and catering" means and includes the preparation, service, free distribution, or sale of food or any beverage, including any alcoholic beverage, or the free distribution or sale of any concession merchandise or service; and

4.2.1.2 "Concession merchandise means and includes inedible goods,

souvenirs, novelties and tickets to events at other venues.

4.2.1.3 "Conference Room Catering" means the food and beverage service provided to users of the Sunset Center, whether HID referrals or not, that utilize the Facility for conferences, meetings, or other than attendance of a produced theater event.

4.2.2 Grant of Right. CITY grants to SCC the exclusive right to engage in concession and catering activity and to enter into agreements authorizing one or more concessionaires to engage in such activity for and on the behalf of, or under the auspices of, SCC, at the Facility, subject to the terms of this Agreement. If SCC decides to retain any such concessionaire(s), SCC shall select such concessionaire(s). If SCC enters into any such agreement(s), SCC shall remain ultimately responsible for compliance with terms and conditions, and performance of obligations under this Agreement. Any such agreement shall incorporate terms and conditions related to concessions and catering activity under this Agreement.

4.2.3 Right Not Effective During CITY Use Periods. The concession and catering rights granted in this section shall not be effective during any period of time when the Facility are used by CITY, unless by express request of CITY, with the exception of the box office.

4.2.4 Merchandise Sales Commissions. Should SCC or performance related merchandise be sold during performances, SCC shall determine whether or not sales commissions will be collected. If so determined, collection of merchandise sales commissions shall be the responsibility of SCC with any and all commissions remaining with SEC.

4.2.5 Coordinate Conference Catering. SCC shall coordinate and indirectly provide Conference Room Catering to North Wing users or users who attend the Facility for Conference Events.

4.2.6 Permits. When serving food or alcohol at the Facility, SCC shall abide by all rules and laws governing their permit, use and consumption including any caterer/supplier limitations established by CITY in effect at that time. SCC must ensure that all permits are obtained including an ABC license as required by law.

4.2.7 Food Service Establishment Permit Required. SCC, or any concessionaire(s), shall ensure that all food offered for sale on or from the Facility has been prepared, transported, served and otherwise provided only by a person or entity issued a current valid Food Service Establishment

pennit by the Monterey County Department of Public Health or its successor.

4.2.8 Licenses and Permits Required: Contingent Expiration of Right. SCC, or any concessionaire(s), shall be responsible for obtaining and maintaining, at no cost to CITY, all licenses, permits and other authorization required to legally conduct the concession and catering activity contemplated herein. CITY shall have no obligation to issue such licenses, permits, or other authorization. CITY shall issue such licenses, permits, or other authorization in accordance with applicable CITY rules and regulations. The inability of SCC, or any such concessionaire(s), to secure or to maintain any such license, permit or other authorization shall not invalidate the concession and catering right granted herein.

4.3 Revenue. All revenue generated from rental or performance fees from the Theater and other parts of the Facility, room rental fees for conference rooms, room rental fees for offices, Facility Use Fees as defined in Section 4.4, concessions, ticket sales for all activities for which SCC is the promoter or presenter, and all proceeds from any grants, donations, sponsorships, advertising, reimbursements or other sources received by SCC or obtained by SCC's efforts shall be used by SCC for the operation and management of the Facility, and for ongoing program development and promotion of the Sunset Center. Restrictions attached to gifts shall be honored by SCC and CITY during and after the term of this Agreement. Provided, however, SCC is encouraged to reject gift restrictions that do not directly support the CITY'S goals and objectives as stated herein.

4.4 **Facility Use Fee.** SCC has adopted a facility use fee of Three Dollars (\$3.00) per ticket with a value of Forty Dollars (\$40.00) or more; Two Dollars (\$2.00) per ticket with a value of Twenty Dollars (\$20.00) but less than Forty Dollars (\$40.00); and One Dollar (\$1.00) per ticket valued under Twenty Dollars (\$20.00) ("Facility Fee"). No Facility Fee will be charged for any event for which admission is free. SCC may waive the fee for events charging Five Dollars (\$5.00) or less. SCC may increase or decrease the Facility Fee, or revise the Facility Fee policy at any time, but shall do so after consultation with CITY; provided, however, that SCC shall not increase or decrease the Facility Use Fee without CITY's consent, if the effective date of such increase or decrease is within one hundred fifty (150) days before the start of the next fiscal year.

4.5 Equipment Repair and Replacement Fund. SCC shall maintain a separate account designated as the "Equipment Repair & Replacement Fund" into which the Facility Fee shall be deposited. The funds deposited in such account are to be used for the specific maintenance of theater

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equipment (outside capital expenditures) such as the stage rigging system, the sound system, the stage lighting system, and other items which uniquely relate to performances within Sunset Center - as opposed to items which are common to general use structures. SCC may, in its sole discretion, access such account to execute emergency repairs to non-performance related components of Sunset Center. A multi-year facility capital plan of not less than five (5) years shall outline proposed major capital purchases and/or repairs.

4.6 Naming Rights. SCC shall have the right to raise revenue in any future fund-raising campaign it conducts by accepting gifts in return for naming any portion of the Facility on behalf of the donor, provided, that the Theater's name shall remain "The Sunset Theater." Names granted during the Campaign for Sunset shall not be deleted by SCC without the written consent of any existing originally named person or entity. Any such naming opportunities shall require prior approval from CITY.

4.7 Sponsorships. SCC may, at its sole discretion, sell sponsorship rights and advertising on its website, brochures, tickets and theater programs for performances, concerts or performing arts series presented by SCC. In addition, SCC may develop special promotions, performance sponsorships, booster organizations, or similar Sunset Center support groups as SCC shall determine appropriate. The sponsorship revenue shall belong to SCC.

4.8 Compliance with Laws. SCC shall not use or permit any person or entity to use the Facility in any manner that violates any law applicable to the Facility or any activity conducted or allowed thereon.

4.9 Booking and Rental Policies. SCC shall exclusively establish and implement Facility booking and scheduling policies, rental rates, and fee schedules for all spaces throughout the Facility. The Executive Director shall book the Facility in accordance with such policies, procedures, rates, and charges, and shall invoice users consistently in accordance with the established rates and charges for the use and occupancy of the Facility, related components, and equipment.

4.10 Protection for Historic Users. SCC and CITY agree that the privilege to schedule dates in the Theater should be coordinated with the presenting organizations that have historically used the Theater ("Historic Presenting Partners"). The Historic Presenting Partners are: The Carmel Bach Festival, The Monterey Symphony, The Carmel Music Society, and Chamber Music Monterey Bay. SCC shall use its best reasonable effort to devise an equitable policy that will provide scheduling

precedence for Historic Presenting Partners while maintaining SCC's capacity to book other events that contribute to the cultural opportunities, Strategic Plan goals and objectives, and/or financial health of the Carmel area and SCC. In the event the HID needs to schedule advance dates beyond the calendar year, HPPs shall have first right of refusal with a fourteen (14) day courtesy hold by SCC. SCC agrees to retain a rate structure that includes reduced rental rates for non-profit users. SCC shall be entitled to use its own discretion with respect to the rental rates and fees charged to non-profit community and historic users, except that SCC shall never charge less than sixty-five (65) percent of the commercial rental rates for such users. The CITY and Carmel Unified School District shall pay the same rates as Historic Presenting Partners for all applicable occupancy, labor, equipment, and fees. Booking and rental agreements shall, to the extent reasonable and practical, be based upon standard contract terms and conditions adopted by SCC. CITY recognizes that market conditions may occasionally require non-standard terms and conditions and that in such circumstances, SCC shall, in its sole discretion, have the authority to use a non-standardized agreement.

4.11 **User and Community Input.** SCC shall publish a comprehensive annual report for public distribution and establish, solicit, and manage web-based input for feedback from customers and Facility users.

4.12 **Coordination with Hospitality Improvement District.** SCC shall promptly coordinate with the Hospitality Improvement District Destination Sales Manager in securing reservations for the use of the Facility. SCC shall assure users shall receive consistent, professional service and a quality experience.

4.13 **Use by CITY.** CITY shall have the right to use the Theater and lobby access and dressing rooms for up to five (5) full days each fiscal year without charge ("CITY's Free Days"), provided that CITY may not use any space previously committed to rental customers by SCC. Additionally, the CITY has the right to use the parking lot on \_\_\_\_\_ at no charge for the annual Homecrafters Fair and CITY birthday party.

4.13.1 SCC shall provide, during CITY's Free Theater Days, at no cost to CITY, one (1) production manager and one (1) front-of-the-house supervisory staff member for such events. Direct costs and staff requirements provided beyond those listed in 4.13.1 shall be borne by user.

4.13.2 CITY also reserves the right to use the Theater on additional days on a space available basis that shall not compete with dates requested by SCC rental customers. If CITY uses the Theater for any days in addition to CITY's Free Days, SCC may charge CITY the following: (1) a space use charge at SCC's usual per diem non-profit rate; (2) staff time for any staff member who performs services for CITY at the Theater, at SCC's usual hourly non-profit rate.

4.13.3 CITY shall be allowed to use the North Wing when available without rental charge, but shall pay the expense of extra staffing or equipment charges arising from its use . Such use shall not be construed as a free theater day as described in this Agreement.

4.13.4 Support Group Use. CITY shall not assign its free use of the Facility, other than the Theater, to other users, except for officially sanctioned Carmel support groups ("Support Groups"). The Support Groups may use the Facility, other than the Theater, without charge Monday through Thursday however Support Groups may not use such rooms previously committed to a third party by SCC, or which are necessary to the presentation of a scheduled event.

4.14 Use of Sunset Theater and Pottery Room by Carmel Public Schools. During the Term of this Agreement SCC shall permit CUSD to use the Theater for up to ten (10) days each fiscal year for public school use without charge ("CUSD's Free Days"). Subject to there being available space at the Theater, permission to use the Theater and the use thereof shall be determined by the Carmel Superintendent of Schools and may not be transferred to non-CUSD entities. CUSD may not use any space previously committed by SCC, or any space which is necessary to the presentation of a previously scheduled event or performance. SCC may charge CUSD for staff time for any SCC staff member who performs services for CUSD at the Theater, at SCC's usual hourly non-profit rate. In addition, if CUSD uses the Theater for any days in addition to CUSD's Free Days, SCC may charge CUSD a space use charge at SCC's usual per diem non-profit rate. CUSD shall have the right to continue its long-time use of the Pottery Room on the northwest corner of Tenth and Mission Streets.

4.15 Art, Furniture and Other Decorative Objects. SCC and CITY understand and agree that CITY may, from time to time, wish to display at Sunset Center works of art, pieces of furniture and/or other decorative objects in a manner that does not disrupt or otherwise interfere with the decoration, displays, or operations of SCC. CITY and SCC shall mutually agree upon such exhibitions, their scheduling, and security. Any special insurance related to such exhibitions shall be the responsibility of the event sponsor. SCC understands that offers of art, furniture and other decorative

objects may be made as donations. Such donations will be accepted only if CITY agrees to the accession and all such property shall be owned by CITY.

**ARTICLES**  
**EXPENSES**

5.1 Costs. SCC agrees to assume the full and complete responsibility for all costs of operation and management of the Sunset Center, except for those specific costs of repair, maintenance, and capital expenditures for which CITY is obligated under the terms of this Agreement as set forth in Article 7 below.

5.2 Operating Budget. The Budget shall be presented in reasonable detail, aligned with SCC's Annual Plan, and shall include the categories that were previously included in SCC's reports provided to CITY during the Prior Agreement, and the following items for each fiscal quarter of each year of the term of this Agreement

5.2.1 Projected Operating Expenses.

5.2.2 Projected Gross Receipts.

5.2.3 Capital expenditures, if any.

5.3 Notwithstanding its obligation to confer with CITY under paragraph 5.2, SCC shall have the final determination concerning any Operating Expense:

5.3.1 The nonpayment of which **will** subject SCC to claims from third parties; or

5.3.2 If it was not incurred, would render SCC unable to comply with its obligations of this Agreement.

5.4 SCC shall commit itself to achieving an annually balanced budget through the generation of earned and unearned revenue and prudent operation and management by a qualified Board of Trustees and staff. SCC shall operate within the scope of the budget and any amendments thereto which SCC has previously submitted to the CITY. SCC has historically operated in a fiscally sound manner.

5.5 Fiscal Year. The fiscal year for SCC shall start July 1 and end June 30 of each year to coincide with CITY's fiscal year.

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5.6 **Incentive Grant.** CITY acknowledges that SCC's expenses incurred in the operation and management of Sunset Center may exceed revenue SCC generates from the Sunset Center. Therefore, CITY agrees to provide SCC with an annual Incentive Grant to be paid to SCC in quarterly installments in advance, commencing on July 1, 2013. The annual Incentive Grant is intended to be used to maintain the financial health and community benefit of the Sunset Center.

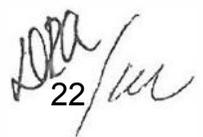
5.7 **Reserve Fund.** The parties acknowledge that the presentation of artistic and entertainment events, while a benefit to the citizens of Carmel, bears a financial risk. SCC shall have the right to create from any positive difference between its incomes and expenses, a reasonable amount to reserve against losses in subsequent years ("Reserve Fund"). The Reserve Fund shall be separate from the Equipment Repair & Replacement Fund.

5.8 **Endowment Fund.** The parties acknowledge and agree that the primary function of SCC is the day-to-day operation, management and maintenance of the Facility. Notwithstanding that acknowledgment and agreement, SCC shall have the right and power to raise funding for the purpose of benefiting the Sunset Center to further the goals and objectives of the CITY as stated herein. The Sunset Center Endowment Fund represents a long-term commitment to the quality and value of Sunset Center as an asset in the community. Upon termination of this Agreement the Endowment Fund shall be transferred to, and maintained by, CITY for use consistent with the purpose of the Endowment Fund.

5.9 **Sunset Presents.** SCC shall be responsible for all costs and expenses associated with Sunset Presents, including but not limited to all talent and related costs, brochures, marketing, and related expenses incurred on behalf of Sunset Presents. All ticket sale revenues and all other revenue, grant proceeds, sponsorship revenues and all incidental income produced by or resulting from SCC's production of Sunset Presents shall, be considered SCC's revenue.

5.10 **Accounting Records, Reporting, and Audits.**

5.10.I SEC shall maintain books, records, documents and other accounting procedures and practices in accordance with Generally Accepted Accounting Principles ("GAAP") consistently applied (e.g., a unitary, internally consistent system of accounts and records) that sufficiently and properly reflect all receipts and direct and indirect costs of any nature associated with the exercise of rights and the performance of obligations by SEC under this Agreement.



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5.10.2 SCC shall provide quarterly reports in a form acceptable to CITY. This financial reporting could be included as a component of the quarterly reporting called for in Section 3.9.2 above. The reports shall include, at a minimum, unaudited financial statements (balance sheet and income and cash flow statements depicting performance against budget), profit and loss statements, and fund development progress.

5.10.3 SCC's books shall be audited annually by an independent Certified Public Accountant engaged by SCC, and this audit report shall be provided to the City Administrator within one hundred and twenty (120) days of the close of each fiscal year.

5.10.4 SCC shall provide an annual financial report to CITY as a component of the Annual Plan as called for in Section 3.9.1 above. The annual financial report shall include a budget for the forthcoming year that provides adequate funding for operation, management and maintenance of the Facility.

5.10.5 SCC agrees that all of its books and records pertaining to the financial operation and management of Sunset Center, upon reasonable notice, shall be open to inspection by the City Administrator and other such officers and employees of CITY as may be designated by CITY during regular business hours.

## **ARTICLE 6**

### **PERSONAL PROPERTY**

#### **6.1 Use of Personal Property.**

6.1.1 Title to all property and equipment contained within the Facility that as of the Effective Date is owned by CITY shall remain with CITY. CITY shall on or before the Effective Date provide SCC an inventory of all of CITY's furniture and equipment within the Facility. Any property or equipment the City furnished to SCC shall, unless otherwise provided herein or approved by CITY, be used by SCC in accordance with this Agreement. All personal property, equipment, and portable items within and on the Facility as of the Effective Date which was obtained with SCC's own funds shall be deemed owned by SCC. This provision intends no assertion of ownership contrary to the rights of any third party. SCC shall maintain and administer that property in accordance with sound operation and management practices. Upon loss or destruction of, or damage to, any CITY property, SCC shall notify CITY thereof and shall take reasonable steps to protect that property from further damage. Except as

provided in Article 10 hereof, SCC shall retain the title to all property and equipment it obtained with SCC's own funds or by its presenting function until the termination or expiration of this Agreement at which time title to all personal property shall transfer to the CITY.

6.J2 On the termination of this Agreement, or at the end of the Term or any renewal thereof, SCC's administrative records, books of accounts and operating software created or purchased by SCC during the Term of this Agreement or any renewal thereof shall be delivered to CITY for retention and storage.

## ARTICLE 7

### MAINTENANCE, REPAIR AND CAPITAL IMPROVEMENTS

7.1 CITY's Responsibilities. CITY agrees to maintain, repair and replace, at its sole cost and expense, the structural integrity, the exterior walls and roof of the buildings located on the Facility, and to maintain the seismic soundness of the buildings located on the Facility. CITY agrees to address in the Capital Improvement Plan the repair and replacement of performance related components such as the stage rigging system, the sound system, the stage lighting system, and other items which uniquely relate to performances within the Sunset Theater but which are not included in 7.2 below. CITY shall also direct, manage and pay for all tree trimming in, on or around the Facility, and resurfacing and restriping of the parking lot. SCC agrees to give CITY written notice of any defect or need for repair to the exterior walls and roof; or the need for seismic repair to ensure the soundness of the buildings located on the Facility; or the need for tree trimming in, on or around the Facility. Rubbish, trash, garbage and other refuse removal shall be performed by CITY under its waste hauler franchise agreement.

#### **7.2 SCC's Responsibilities.**

7.2.1 SCC is responsible for maintenance and repair of the interior of the Facility which shall include operator improvements, audio/visual systems, sound system, telephone equipment, lighting and plumbing fixtures and appliances. SCC's responsibility for plumbing fixtures and appliances extends through fixture drain and trap down to the junction with the line into wall or floor, and includes attempting to clear clogs by means of plunger and toilet auger. SCC's janitorial and routine maintenance responsibilities include: timely repair or replacement of light fixtures or bulbs, electrical switches or

controls; cleaning, repair or replacement of seating, curtains, carpets, flooring, and faucets; cleaning windows and walls; and servicing of audience areas and restrooms.

7.2.2 SCC shall timely pay all utility charges for utility service to the Facility including, but not limited to, electricity, water, storm water, sewer, and telephone. SCC shall, at its expense, keep and maintain the Facility in a good condition and repair, including all custodial maintenance, and shall keep the parking area, landscaping, sidewalks, stairs, walkways, driveways and utility systems of the Sunset Center in good repair. All landscape maintenance shall be performed by SCC, as well as general exterior maintenance and repairs, cleaning, sweeping, planting and landscaping, lighting, and water, maintenance and repair and replacement of common signage, directional signs, markers, bollards, and bumpers, and maintenance of all electrical, plumbing, heating, ventilation, air conditioning, and other equipment and facilities servicing the buildings on the Facility.

7.2.3 SCC's budget contains estimates for the cost of maintenance it undertakes in this Agreement, and for its payment of utilities, including water. In connection with SCC's quarterly financial reports to CITY, SCC shall update its maintenance and utility cost estimates.

7.2.4 The CITY may, upon request of SCC, and mutual agreement as to terms, make its staff available to SCC on a case-by-case basis to facilitate and support the routine maintenance and repairs of the Facility.

7.3 **Capital Improvements.** Capital improvements, modifications and additions to the Facility shall be the responsibility of CITY and shall be included in the CITY's Capital Improvement Plan and performed only after good faith consultation with SCC. SCC may identify and recommend capital improvements for inclusion in the CITY's Capital Improvement Plan; develop capital improvement or modification plans and obtain cost estimates; in whole or partially fund; and recommend such plans to CITY. CITY may, at its option, delegate to SCC the supervision, contracting, and completion of any such capital improvements, modifications or additions. Funding of capital improvements by SCC shall be a committed source appropriated by the City Council for completion of the specified capital improvement.

ARTICLES  
INSURANCE

8.1 CITY's Insurance. CITY shall maintain and keep in force during the Term of this Agreement, for the mutual benefit of CITY and SCC, at CITY's sole cost and expense, such insurance as it deems appropriate and its insurance policies shall name SCC as additional insured.

8.2 SCC's Insurance. SCC shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the SCC's operation and use of the Facility.

8.2.1 No Limitation. SCC's maintenance of insurance as required by the agreement shall not be construed to limit the liability of SCC to the coverage provided by such insurance, or otherwise limit CITY's recourse to any remedy available at law or in equity.

8.2.2 Minimum Scope of Insurance. SCC shall maintain and keep in force during the Term of this Agreement insurance of the types described below:

8.2.2.1 Commercial General Liability insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover Facility and contractual liability. CITY shall be named as an insured on SCC's Commercial General Liability insurance policy using ISO Additional Insured-Managers or Lessors of Facility Form CG 20 11 or a substitute endorsement providing equivalent coverage.

8.2.2.2 Property insurance shall be written on an all risk basis

8.2.2.3 Directors and officers liability insurance:

8.2.2.4 Worker's Compensation insurance for all its employees as required by State Law;

8.2.3 Minimum Amount of Insurance. SCC shall maintain the following insurance limits:

8.2.3.1 Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence, \$5,000,000 general aggregate which shall name CITY as additional insured.

8.2.3.2 Property insurance shall be written covering the full value of SCC's property and improvements with no coinsurance provisions.

8.2.4 All insurance shall be obtained from insurers having an office located in the State of California.

8.2.5 Other Insurance Provisions

8.2.5.1 The insurance policies are to contain, or be endorsed to contain, the following provisions for Commercial General Liability insurance:

a. SCC's insurance coverage shall be primary insurance as respect CITY. Any Insurance, self-insurance, or insurance pool coverage maintained by CITY shall be excess of SCC's insurance and shall not contribute with it.

b. SCC's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to CITY.

8.2.6 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

8.2.7 Verification of Coverage. SCC shall furnish CITY with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of SCC.

8.2.8 Waiver of Subrogation. SCC and City hereby release and discharge each other from all claims, losses and liabilities arising from or caused by any hazard covered by property insurance on or in connection with the Facility or said building. This release shall apply only to the extent that such claim, loss or liability is covered by insurance.

8.2.9 City's Property Insurance. City shall purchase and maintain during the term of this Agreement all-risk property insurance covering the Facility for their full replacement value without any coinsurance provisions.

8.2.10 SCC shall notify CITY immediately after a casualty occurs to the Facility or the building.

## ARTICLE 9

### DAMAGE TO FACILITY; INDEMNIFICATION

9.1 Destruction or Substantial Damage of Facility. In the event of damage to or destruction of the Facility, CITY, in consultation with SCC, will determine the appropriate course of action to restore full condition and use of the Facility if possible. CITY retains the absolute right to terminate this Agreement in the event of substantial damage to or complete destruction of the Facility.

9.2 Indemnification by s e c . SCC agrees to indemnify, defend and hold CITY, its officers, directors, employees agents and representatives, harmless from any injury to any person or to any persona] property or to any part of the Facility caused by the negligent or intentional act of SCC, its officers, directors, employees, agents, servants or representatives. However, this indemnification by SCC shall be limited to the scope and extent of SCC's insurance coverage. In addition, SCC agrees that it shall require in all agreements with any users of the Facility, or any part thereof, that such users shall indemnify, defend and hold harmless CITY and SCC from any injury to any person or to any personal property, or to any part of the Facility, caused by the negligent or intentional act of such users, their officers, directors, employees, agents, or representatives. In the event legal action by third parties CITY shall retain the right to approve SCC's legal counsel retained pursuant to this section.

## ARTICLE 10

### DEFAULT AND TERMINATION FOR CAUSE

10.1 Termination Upon Default. Except as otherwise provided in this Agreement either party may terminate this Agreement upon the material breach thereof by the other party, provided that prior to such termination, the party terminating this Agreement shall give the other party not less than sixty (60) days prior written notice of such breach (to allow for the cure of said breach if possible), unless the breach is of a nature that cannot be cured by the passage of time, in which event, the party terminating the Agreement shall give not less than thirty (30) days written notice of termination.

10.2 Default.

10.2.1 Default. The following events shall constitute a default and material breach of this Agreement.

10.2.1.1 The failure to comply with any of the terms of this Agreement

regarding insurance;

10.2.1.2 The material violation of any law, ordinance, rule or regulation which, after notice and reasonable time to cure, remains uncured;

10.2.1.3 The abandonment or vacating of the Facility;

10.2.1.4 The absence of any scheduled performing arts event for a period of ninety (90) days or more, when not due to repair problems or maintenance work for which CITY is responsible;

10.2.1.5 The dissolution of the SCC or the merger of SCC with another entity without the prior written approval of CITY;

10.2.1.6 The assignment or transfer of this Agreement without the prior written consent of CITY as described in Section 11. of this Agreement; and

10.2.1.7 The failure to perform any other condition or covenant of this Agreement where such failure in performance is not remedied within the time allowed by this Agreement, or such other period for remedial action as is expressly otherwise provided for in this Agreement, or agreed upon by both parties.

10.2.2 Extension of Period to Remedy Default. Neither CITY nor SCC shall be in default unless such party fails to perform an obligation required of it within thirty (30) days after written notice from the aggrieved party has been sent by the other, specifying the particular obligation that the other has failed to perform; provided, that if the nature of the other party's obligation is such that more than thirty (30) days are reasonably required for performance, then the other party shall not be in default if it commences performance within such thirty (30) day period, and thereafter diligently prosecutes the same to completion within one hundred eighty (180) days.

10.2.3 Remedies upon default and material breach. Upon the occurrence of any Event of Default by SCC, CITY shall have the option to pursue any one or more of the following remedies without notice or demand.

10.2.3.1 Reduce or eliminate CITY financial support or incentive grants.

10.2.3.2 Terminate this Agreement, in which event SCC shall immediately

surrender the Facility to CITY, and if SCC fails so to do, CITY may, without prejudice to any other remedy it may have for possession, enter upon and take possession of the Facility and expel or remove SCC and any other person who may be occupying such Facility or any part thereof, and SCC agrees to pay to CITY on demand the amount of all loss and damage CITY may suffer by reason of such termination.

10.2.4 Pursuit of one remedy shall not preclude pursuit of any other remedies, such remedies being cumulative and non-exclusive. No agreement to terminate this Agreement or accept a surrender of said Facility shall be valid unless approved by the City Council. No waiver by CITY of any violation or breach of this Agreement shall be deemed or construed to constitute a waiver of any other violation or breach of any of the terms of this Agreement. Forbearance by CITY to enforce one or more of the remedies upon an event of default shall not be deemed or construed to constitute a waiver of such default or of CITY's right to enforce any remedies with respect to such default or any subsequent default.

10.2.5 If CITY employs the services of an attorney in connection with an event of default by SCC under this Agreement, or if either party brings an action or proceeding against the other party arising out of or concerning performance or interpretation of this Agreement, the prevailing party shall be entitled to recover from the other party its attorneys fees and costs.

### 10.3 **Termination for Cause.**

10.3.1 **Revenue Shortfall.** If SCC depletes reserves accumulated for the purpose of funding budget shortfalls or unexpected expenses and at the same time fails to achieve at least eighty percent (80%) of the total projected earned revenue in any fiscal year, then CITY may give SCC not less than one hundred eighty (180) days notice that this Agreement shall be terminated effective at the end of the notice period, unless SCC achieves 80% of the projected earned revenues for the fiscal year following the fiscal year in which SCC has failed to achieve projected Facility revenue.

10.3.2 Both parties of this Agreement acknowledge that if fundraising, appropriate use of reserves and prudent fiscal operation and management does not result in a solvent organization that the CITY has the right to assume any and all duties and functions contained in this Agreement.

10.3.3 In the event that this Agreement is terminated, SCC shall surrender the Facility to CITY. CITY shall not owe SCC any refund or other compensation for contributions made by SCC for operator improvements to the Facility.

10.4 Upon termination of this Agreement, CITY shall be assigned and shall own all of SCC's assets, and shall immediately be deemed to have assumed all contractual and financial obligations of SCC and shall be responsible directly to the contracting parties and creditors for the prompt payment and performance thereof. Upon default by SCC or termination for cause by the CITY, the CITY may choose to take control and operate SCC to preserve contractual obligations with employees, vendors, artists and others. The SCC Board of Trustees agree, for itself and future Trustees, to facilitate a smooth and seamless transfer of control to the CITY.

## ARTICLE 11

### ASSIGNMENT, SUBLETTING AND FINANCING

11.1 No Assignment. Obligations or rights of SCC under this Agreement may not be assigned or otherwise transferred by SCC, without the prior written consent of CITY, which consent may be withheld at the sole discretion of CITY. The assignment or transfer of this Agreement without such consent shall constitute an Event of Default. In the event of any proposed assignment or transfer of this Agreement, SCC shall cause to be delivered to CITY simultaneously with such proposed assignment or transfer, an instrument in writing, executed by the assignee, in which the assignee shall assume and agree to accept all the terms and conditions of this Agreement..

11.2 Liens and Encumbrances. SCC shall keep the Facility, and the Operator Improvements free and clear of any liens and encumbrances. Notwithstanding the foregoing, SCC may finance up to \$20,000 of the total costs of the Operator Improvements. At CITY's request, SEC shall furnish CITY written proof of payment of any items that would or might constitute the basis for such a lien on the Facility.

## ARTICLE 12

### GENERAL PROVISIONS

12.1 Administration. This Agreement shall be administered on behalf of SCC by the Board of Trustees of SEC, which may appoint the Executive Director or any Trustee or Trustees for such purpose.

12.2 CITY's Right to Enter. At any time, CITY and its agents shall have the right to enter the Facility for the purpose of inspection, posting notices of any kind permitted or required by law, performing CITY's obligations hereunder or taking possession in the event of a default by SCC.

12.3 Government Compliance, Licenses and Similar Authorization. SCC, its officers, agents and employees shall comply with all federal, state, local and municipal regulations, ordinances, statutes, rules, laws, and constitutional provisions applicable to SCC's operation and management of the Facility hereunder. SCC, at no expense to CITY, shall secure and maintain in full force and effect during the term of this Agreement all required licenses, permits and similar legal authorizations, and comply with all requirements thereof. CITY shall have no obligation to issue such licenses, permits, or authorizations. CITY shall issue such licenses, permits, or authorizations in accordance with applicable City rules and regulations.

12.4 Attendance and Safety Standards. SCC agrees to conduct its activities with full regard to public safety and will observe and abide by all applicable regulations and requests by duly authorized governmental agencies responsible for public safety to assure such safety. The CITY Fire Chief or his/her designee shall have the authority to determine, in the reasonable exercise of his/her discretion, the number of persons that may be admitted to, and safely and freely move about in the Facility. SCC shall not sell or issue tickets or credentials for admission to the Facility in an aggregate number that exceeds the CITY Fire Chiefs determined number. SCC shall not admit to the Facility more people than the number so determined by the CITY'S Fire Chief. SCC shall not permit any chair or movable seat or other obstruction to be erected or placed in any passageway or fire exit. Sidewalks, grounds, entries, passages, vestibules, halls, elevators, abutting streets and all ways of access to the Facility shall not be obstructed by SCC or used for any purpose other than for ingress and egress to the Facility for persons or property. The CITY shall be responsible for assuring compliance with each of the foregoing requirements during periods of CITY use of the Facility under this Agreement.

12.5 Website and Sunset Center brand: SCC will operate a website and market the facility in accordance with the terms of this contract. All rights and privileges related to the website domain names and trademark logos shall remain with CITY. CITY remains owner, and maintains ownership rights of "Sunset Theater," "Sunset Cultural Center" "Carmel Sunset Center," and the like. Any trademarks or copyrights shall be transferred to CITY upon termination of this Agreement.

12.6 No Waiver. No consent or waiver by any of the parties to any breach or default by another party under this Agreement shall be valid unless given in writing and shall not be deemed or construed to be a consent or waiver to any other breach or default under this Agreement, whether with respect to the same obligation or any other obligation. Furthermore, failure on the part of any party to act or to complain or to declare another party in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder. The giving of consent by any party in any one instance shall not limit or waive the necessity to obtain such party's consent in any future instances.

12.7 **Removal From the Facility.** Immediately prior to the expiration, or upon sooner termination of this Agreement, SCC shall remove all personal property belonging to SCC not transferred to CITY, and ensure that the Facility is in reasonably good condition, normal reasonable wear and tear excepted, with all interior walls painted, or cleaned so that they appear freshly painted, and repaired or replaced if damaged. All floors shall be cleaned or waxed, and all carpets shall be professionally cleaned.

12.8 Contract Representatives. Except as otherwise agreed in writing by the Parties, SCC's Executive Director and the CITY'S City Administrator shall be the individuals for all communications regarding the performance and terms of this Agreement. All CITY consent or authorizations provided for under this Agreement may be given in writing by the City Administrator except as to such consents or authorizations that are reserved to the City Council by this Agreement, State law or local ordinance.

12.9 Notices. Any notice required under this Agreement must be in writing, and may be given either personally, by facsimile, by registered or certified mail, return receipt requested. If by facsimile, a notice shall be deemed to have been given and received at the time and date the facsimile is received at the number provided below. If personally delivered, a notice shall be deemed to have been given and received when delivered to the party to whom it is addressed. If given by registered or certified mail, the same shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. Such notices or communications shall be given to the parties at their addresses set forth below

CITY:

City Administrator

City of Cannel-by-the-Sea

P.O. Box CC

Cannel, CA 93921

Telephone: (831) 620-2000

Facsimile: (831) 620-2009

**sec:**

Executive Director

Sunset Cultural Center, Inc.

P.O. Box 1950

Cannel, CA 93921

Telephone: (831) 620-2040

Facsimile: (831) 624-0147

Either party may change its address for receipt of reports, notices or payments without the formal amendment of this Agreement by giving the other party written notice of such change not less than fifteen (15) days prior to the effective date thereof.

12.10 Dispute Resolution. The Parties are fully committed to working with each other throughout the term of this Agreement and agree to communicate regularly with each other at all times so as to avoid or minimize disputes. The Parties agree to act in good faith to prevent and resolve potential sources of conflict before they escalate into a question or controversy. If any dispute arises between the parties relating to or arising under this Agreement, the Parties each commit to resolving such dispute in an amicable, professional, and expeditious manner and agree to use the following procedure for resolving the dispute: (a) either party may give notice to the other of the dispute and the City Administrator and the SCC Executive Director or their designees will meet within three (3) CITY business days to attempt to resolve the dispute; (b) a meeting or meetings shall be held promptly between representatives of the parties regarding the dispute to attempt in good faith to negotiate a resolution of the dispute; (c) if within ninety (90) days after a dispute has arisen, the parties have not succeeded in negotiating a resolution of the dispute, they agree to submit the dispute to mediation; (d) the mediator shall be jointly selected by the parties, or failing agreement within thirty (30) days after the parties fail to negotiate an informal resolution of any dispute, the mediator shall be a retired judge or justice designated by, and in accordance with the then existing Rules of Practice and Procedure of Judicial Arbitration and Mediation Services, Inc. (JAMS). In any mediation conducted pursuant to this section, the provisions of California Evidence Code section 1152.5 shall be applicable to limit the admissibility of evidence disclosed by the parties in the course of the mediation; and (e) if the parties are not successful in resolving the dispute through the mediation, then the parties agree that the dispute may be settled by advisory arbitration.

**12.11 Equal Availability.** SCC shall make Facilities and all events, performances, shows, meeting rooms and offices, available and open to the public on a fair, equal and non-discriminatory basis, and further agrees and promises not to discriminate against or segregate any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, age, handicap, marital status, ancestry or national origin in the operation of the Facilities, including without limitation Title III of the Americans with Disabilities Act and the provision of such auxiliary aids or alternate services as may be required by the ADA.

**12.12 Royalties. License fees and Similar Payments.** SCC shall pay, before delinquency, all royalties, license fees, and other charges due and payable to any person or entity as the consequence of any public performance(s) or display(s) of copyrighted work(s) during its use of the Facilities. SCC shall be responsible for the payment to BMI (Broadcast Music Institute, Inc.) and/or ASCAP (American Society of Composers, Arrangers and Publishers), or any other entity having legal jurisdiction for any contract licensing fees incurred through the use of copyrighted material over which such licensing agents have jurisdiction, during a SCC event.

**12.13 Possessory Interest Tax.** It is not the intention of either party to this Agreement to create a possessory interest for SCC in the Facility or any part thereof. CITY and SCC therefore agree to cooperate fully and to take all steps necessary to ensure to the fullest extent possible that there is no possessory interest for SCC created in the Facility, or any part thereof, and to avoid the imposition of any tax on any such possessory interest asserted or assessed by the Monterey County Assessor under Rev. & Tax. Code § 107 or any successor section. The Parties acknowledge that exemption letters from the California Franchise Tax Board and the Internal Revenue Service the other required entities were obtained during the term of the First Agreement. The Parties have not been advised of any notice that a possessory interest is being asserted or assessed by the Monterey County Assessor's Office or any change in SCC's status as an exempt organization under Internal Revenue Code §501(c)(3). CITY acknowledges and agrees that if any possessory interest tax is assessed, it will pay such tax on behalf of SCC, either directly to the Monterey County Tax Collector, or promptly reimburse such payment to SCC if SCC is required to pay such tax. The Parties agree to cooperate in taking all steps necessary to apply for and obtain a refund of any such tax paid. SCC agrees that it shall require in any agreement with any user of the Facility, that the user shall be solely responsible for the payment of any possessory interest tax assessed against such user, and that such user shall indemnify and hold CITY and SCC harmless there from.

*ADA*  
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*/cc*

12.14 Conflict of Interest. No member, official, or employee of the CITY shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee of the CITY participate in any decision relating to this Agreement, which affects their personal interests or interests in any corporation, partnership, or association in which they are directly or indirectly interested.

12.15 Severability. Should any provision hereof prove to be invalid or illegal, such invalidity shall in no way affect, impair or invalidate any other provision hereof and such remaining provisions shall remain in full force and effect.

12.16 Time of the Essence. Time is of the essence with respect to the performance of every provision hereof in which time of performance is a factor.

12.17 Binding on Successor and Assigns. This Agreement shall, subject to the provisions regarding assignment, apply to and bind the respective heirs, successors, executors, administrators and assigns of CITY and SCC.

12.18 California Law. This Agreement shall be construed and enforced in accordance with the Laws of the State of California.

12.19 Warranties and Indemnities.

12.19.1 SCC's Representations and Warranties. SCC hereby represents and warrants to CITY that it has full power and authority to enter into this Agreement and perform in accordance with its terms and provisions; that the Parties signing this Agreement on behalf of the SCC have the authority to bind SCC and to enter into this transaction; and that SCC has taken all requisite action and steps to legally authorize the execution, delivery, and performance of this Agreement.

12.19.2 CITY's Representations. CITY hereby represents and warrants to SCC that it has full statutory right, power, and authority to enter into this Agreement and perform in accordance with its terms and provisions; that the individuals signing this Agreement on behalf of CITY have the authority to bind CITY and to enter into this transaction; and that CITY has taken all requisite action and steps to legally authorize the execution, delivery, and performance of this Agreement.

12.20 Construction. The language in all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning, and not strictly for or against either CITY or SCC. The

captions used in this Agreement are for convenience only and shall not be considered in the construction or interpretation of any provision hereof. The terms "shall," "will," and "agree" are mandatory. The term "may" is permissive. When a party is required to do something by this Agreement, it shall do so at its sole cost and expense without right of reimbursement from the other party unless specific provision is made therefor.

12.21 Days/Dates. Unless othezwise stated herein, as used in this Agreement, the term "days" shall mean calendar days which shall include all Saturdays, Sundays and State or National Holidays, provided that if the last date or last date to perform any act or give any notice with respect to this Agreement shall fall on a Saturday, Sunday or State or National holiday, such act or notice may be timely performed or given on the next succeeding day which is not a Saturday, Sunday or State or National Holiday. If the term "business days" is used, all Saturdays, Sundays and State or National Holidays shall be excluded.

12.22 Entire Agreement. This Agreement and the exhibits attached hereto constitute the entire agreement between the parties, and there are no binding agreements or representations between the parties. Neither CITY nor CITY's agents has made any representation or warranty as to (a) whether the Facility may be used for SCC's intended use under existing Law, or (b) the suitability of the Facility for the conduct of SCC's business. SCC expressly waives all claims for damage by reason of any statement, representation, warranty, promise, or other agreements of CITY or CITY's agents, whether written or oral, express or implied if any, not contained in this Agreement or in any addendum or amendment hereto. No subsequent change or addition to this Agreement shall be binding unless in writing and signed by the parties hereto.

12.23 Survival. The provisions of this Agreement with respect to representations, warranties and indemnifications, and obligations which may or must be performed after termination or expiration of this Agreement shall survive the termination or expiration of this Agreement and shall be enforceable in accordance with their terms, covenants and conditions.

12.24 Acceptance by CITY. This Agreement shall not be valid or binding unless and until accepted by CITY upon approval of CITY's City Council and a fully executed copy delivered to SCC.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

**CITY**

CITY OF CARMEL-BY-THE-SEA, a municipal corporation

By \_\_\_\_\_

----- (PRINT NAME)

Its Authorized Signatory

BY - - - - -

----- (PRINTNAME)

Its Authorized Signatory

**sec**

SUNSET CULTURAL CENTER INC., a California nonprofit corporation

By *d.* \_\_\_\_\_

*?:j&e J.Lt!Je/ov;* t1 (PRINTNAME)

Its Authorized Signatory

By *vice chair* \_\_\_\_\_

*Deanna R Adolph* (PRINT NAME)  
Its Authorized Signatory

*Secretary*  
*Deanna R Adolph*

**EXHIBIT A**  
**(Description of Facility)**

*APC*  
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*ier*

## Exhibit B

### 1. Reporting/Communication:

- Attend quarterly operational meetings with City Administrator. Measurement: 4 per year
- Attend annual meeting between SEC Board and City Council. Measurement: 1 per year
- Participate in the Hospitality Improvement District. Measurement: 9 HID Board meetings per year

### 2. Client Satisfaction:

- Conduct an annual patron satisfaction survey, achieving 90% or better overall satisfaction ratings.

### 3. Utilization:

- Through a combination of rentals and presenting, achieve and maintain an industry standard theater utilization rate at or above 60% - or 150 rentals (standard maximum number of days available is 250 days per year, sixty percent of 250 = 150 uses).
- Through a combination of rentals and free City use, achieve utilization of North Wing Rooms at a total of 400 uses or better.

### 4. Operating Efficiencies:

- Update strategic plan periodically. Measurement: Every 3 years.
- Conduct 100% of annual performance reviews for all departmental managers. Measurement:  
5



# CITY OF CARMEL-BY-THE-SEA

## AGENDA BILL

AB 1144  
June 30, 2016  
Public Hearing

**TO:** Honorable Mayor and Members of the City Council  
Chip Rerig, City Administrator

**FROM:** Rob Mullane, AICP, Public Works Director  
Marc Wiener, AICP, Community Planning and Building Director

**SUBJECT:** Beach Fires Revised Pilot Program Coastal Development Permit Approval

<b>AMOUNT OF EXPENDITURE</b>	\$49,200
<b>AMOUNT BUDGETED</b>	\$49,200
<b>APPROPRIATION REQUIRED</b>	\$ N/A

### RECOMMENDATION

Conduct a public hearing on the Revised Beach Fires Management Pilot Program, adopt findings for approval, and approve a Coastal Development Permit for the Pilot Program subject to the program's conditions of approval.

### SUMMARY

City staff has revised the City's Beach Fires Management Pilot Program (Pilot Program) pursuant to the direction provided at the April 5, 2016 and June 6, 2016 City Council meetings and has prepared a revised Coastal Development Permit (CDP) for the Council's consideration. This CDP was heard at the June 6, 2016 City Council meeting; however, an error in publishing the public hearing notice requires that the CDP be re-noticed and re-heard. The Council's input on the Pilot Program from the June 6, 2016 meeting has been incorporated into a revised program (dated June 2016). The June 2016 Pilot Program is included as Attachment 1 to this staff report. Similarly, updates to the Findings and Conditions of Approval have been made.

#### Background and Recent Developments

At the April 5, 2016 City Council meeting, the Council directed staff to make revisions to the Pilot Program and take other actions prior to scheduling the CDP for action. The specific revisions and other direction were noted in the City Council motion, which is included in the minutes of the April 5<sup>th</sup> meeting (Attachment 2). Similarly, the Council's input on the program from the June 6, 2016 meeting is noted in the draft minutes from that meeting, which are also included in Attachment 2.

At both the April 5<sup>th</sup> and June 5<sup>th</sup> meetings, the Council achieved consensus on the principles that unlimited wood fires on Carmel Beach should no longer be allowed, nor should wood fires be allowed to be built directly on the sand.

The salient components of additional direction provided at the June 6<sup>th</sup> meeting are as follows:

- to allow up to 12 City-supplied wood-fueled fire devices in the first phase of the Pilot Program, and allowing user-supplied propane devices for beach fires throughout the program;
- to conduct a thorough removal of accumulated charcoal from the beach in the early portion of the program;
- to maintain the current geographic limitation for beach fires to the areas of Carmel Beach south of Tenth Avenue but to require that fires be at least 50 feet from the base of the bluffs;
- to allow approximately 2 to 4 wood-fueled beach fire devices to be community devices for shared use, with the rest of the units being available on a first come, first serve basis (with an option of one device being able to be reserved as part of a special event permit subject to the restrictions noted in the pilot program);
- to have City staff consider providing City-supplied wood for the beach-fire devices; and
- to have the hours for beach fire use whether propane-fueled or wood-fueled be from 4 p.m. to 10 p.m.

### *Environmental Review*

The proposed Pilot Program is categorically exempt from CEQA requirements, pursuant to Section 15311 of the State CEQA Guidelines. Class 11 exemptions include the construction or placement of minor structures accessory to existing facilities, including signage, ash cans (if needed), and fire-containment devices, if installed seasonally as part of the Pilot Program. User-supplied propane-fueled fire devices are already allowed on Carmel Beach south of 10<sup>th</sup> Avenue. Wood-fueled fires are also currently allowed on Carmel Beach south of 10<sup>th</sup> Avenue, and wood fires are currently allowed to be built directly on the sand and without a limitation on the number of fires.

The Pilot Program would limit the number of wood-fueled fires to no more than 12, which would substantially reduce Air Quality impacts from fine particulate matter and other pollutants in wood smoke as well as decrease aesthetic impacts from charcoal and ash left on the sand. While fire in any of its forms is inherently hazardous to some degree, the Pilot Program would result in more effective management of beach fires. The enhanced education, enforcement, and outreach program component with 7-day/week, 5:00 to 11 :00 pm staffing by a beach patrol officer would assist in ensuring that beach fires are properly operated and extinguished, with ash and charcoal properly disposed.

The use of propane-fueled devices and wood-fueled fire containment devices would also reduce the risk of burns from buried or improperly extinguished fires, and while City-supplied wood-fueled units would present a new risk to beachgoers who may trip or otherwise bump into these devices, the hazard would be similar to if not less than the current situation of a potentially large number of improperly extinguished fires, many of which are buried in sand and present a hidden burn hazard to beach goers that evening as well as the following day. Any City-sponsored wood-fueled containers would be removed for the winter storm season to avoid having these structures swept into the ocean so as to present a hazard to ocean recreation. The limited number of wood-fueled devices and temporary signage are intended to reduce existing environmental impacts and do not present any unusual circumstances that would result in a potentially significant environmental impact.

### Conclusion

The Council may approve the Pilot Program CDP as currently drafted, or may direct changes to the Pilot Program and approve a revised version. Potential modifications also include those to the findings

and conditions of approval. Alternatively, the Council could provide direction to staff and continue the item to a subsequent meeting; however, it should be noted that the Coastal Commission was hopeful that the City would have a program in place for this summer. Staff recommends that the City Council conduct the public hearing on the pilot program, adopt findings for approval of the program, and approve a CDP for the pilot program subject to the conditions of approval.

**PRIOR CITY COUNCIL ACTION**

The City Council considered an appeal of the Planning Commission's approval of a CDP for the Pilot Program approval on May 4, 2015 and May 7, 2015, and at the latter meeting, denied the appeal. On August 6, 2015, the Council adopted an urgency ordinance enacting a prohibition on beach fires on Carmel Beach Friday through Sunday and on Holidays. The Council extended the urgency ordinance for a total period of one-year, on September 1, 2015. The City Council heard updates on the beach fires pilot program on January 4, 2016, and April 5, 2016, and provided direction for revisions to the pilot program at the April 2016 meeting. Finally, testimony and a petition in support of maintained some level of wood beach fires was provided to the Council under Public Appearances at the February 2016 City Council meeting. The CDP was considered at the June 5, 2016 City Council meeting; however, an error in publishing the hearing notice requires the item to be re-heard.

**ATTACHMENTS**

1. May 2016 Revised Draft Beach Fires Management Pilot Program
2. April 5, 2016 and draft June 6, 2016 City Council Meeting Minutes
3. May 9, 2016 Letter from California Coastal Commission staff
4. Findings
5. Conditions of Approval
6. Recent Correspondence Received on the Pilot Program

<b>APPROVED:</b>  _____ <b>Date:</b> _____ Chip Rerig, City Administrator
--



# Beach Fire Management Pilot Program

Revised Program of June 2016

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## Executive Summary

The City of Carmel-by-the-Sea seeks to continue the recreational opportunity of beach fires while exploring options to minimize the impacts of wood-fueled beach fires on the community and the sensitive environmental resources of the beach. As such, a pilot program has been designed that consists of the allowance of up to 12 wood-fueled fire devices along the beach in designated areas as well as the allowance of user-supplied propane-fueled beach fire devices along Carmel Beach. The wood-fueled devices would initially be City-supplied; however, the pilot program would also allow the City to change the approach to one that provides for the same number of user-supplied wood-fueled devices. In either scenario, the wood-burning devices would be located at designated locations near beach access staircases and a minimum of 50 ft seaward of the base of the coastal bluff or seaward limit of the dunes. The locations for wood-fueled devices would be between Tenth Avenue and Santa Lucia. Initially, the pilot program would include having approximately 2 to 4 of the wood-fueled devices being "community devices," while the rest of the devices available on a "first come, first serve" basis. The number of community devices may be adjusted upward or downward as part of the program, and the City may opt to provide wood for the community devices. The devices would be available at no cost. The City would ensure that the City-supplied fire devices are regularly maintained and cleaned.

In addition to the wood-fueled devices, the City would allow and encourage user-supplied propane fire devices along the beach between Martin Way and Tenth Avenue. The propane-fueled devices would be allowed at the same distance from the base of the bluff: a minimum of 50 ft from the base of the bluff. The City does not envision a restriction on the number of user-supplied propane-fueled devices, but in the event of public safety needs or other unforeseen issues, may need to establish reasonable limitations in latter phases of the program. The pilot program also includes enhanced educational and enforcement efforts, including the use of private security, City police officers and volunteers to educate the public about the pilot program and its associated rules. The pilot program duration would be up to three years and would include active management to refine the program in response to lessons learned. No charcoal briquette fires would be allowed under the pilot program; however, propane-fueled gas grills would be allowed.

### Objectives

The principles of the beach fire management pilot program are twofold: (1) to manage the number of beach fires and (2) to refine the beach fires rules. The objectives of the program are: (1) to preserve the quality of Carmel Beach's white sand, (2) to enhance recreational use and public safety of Carmel Beach, and 3) to protect the resource values of the beach environs including ambient air and water quality.

The City's Land Use Plan provides broad guidance regarding beach use, protection, and management:

***"Provide for a wide variety of passive and active recreational experiences for all beach users while protecting***



be preserved *I* enhanced. Prior to or at the beginning of the pilot program as well as throughout its implementation, the condition of the beach would be documented through photographs and/or video footage to demonstrate the effectiveness of the program in improving the aesthetics of the beach and shoreline areas. The City recently obtained an aerial video of the beach that documents the pre-program amount of charcoal located throughout the beach. The City would arrange for subsequent aerial video footage following the first year of the program, and potentially following the second year, if the first post-program footage is inconclusive, to document the program's effect on cleanliness of the beach. Photos would also be taken from the bluff top at the set (fixed) locations at quarterly intervals to assess beach cleanliness and appearance.

### **Objective 0-2 Enhance Public Use and Safety of Carmel Beach**

**Measurement: Install City-Supplied Fire Devices or Designate Areas for User-Supplied Wood Fire Devices.** The first phase of the program would include a thorough clean-up of existing charcoal on the beach. The program also includes the City installing up to 12 City-supplied and City-maintained wood-fueled fire devices at specific locations adjacent to public beach access points between Martin Way and Tenth Avenue. The fire devices would be available on a first come, first served basis from 4 pm to 10 pm daily, although the City will also designate approximately 2 to 4 of the devices to be community devices and available for shared use. City-supplied devices would be anchored into the sand at fixed location for the summer and fall season, and remain in place until threatened by winter-season wave scour as discussed below in Hazard Avoidance. The devices would be removed for a portion of the winter storm season and may also be removed at other times of the year in response to a tsunami warning, or during other periods of unusually high tides, off-season storms, and low beach profile conditions. The City-supplied devices would be returned to the beach once storms and high tides subside. The specific location of the majority of the devices would be adjusted throughout the pilot program in order to select locations that are least prone to seasonal beach scour, and as such, can remain in place as long as possible into the winter storm season and as early as possible following the winter season. User-supplied portable propane-fueled devices would be allowed year round. The City anticipates that local- and area-wide stores may also to rent out user-supplied propane devices (or wood burning devices, should these be allowed in lieu of City-supplied wood-fueled devices), and the City would provide information on where such units may be acquired on beach area signage and on the City's website as well as a part of the beach fire management educational program. While not a part of the initial phase of the pilot program, should the program incorporate the City may also sponsor or

contract with a vendor to provide propane-fueled devices for rent at a location within the City, if this is determined to be a necessary component for increasing access to portable user-operated units. This program component would need to be further refined and may involve a modification to restrictions in the City's Municipal Code regarding commercial activities in the shoreline area.

### **Objective 0-3 Protect Resource Values: Air and Water**

**Measurement: Reduce the amount of wood smoke and charcoal debris generated by beach fires.** The program provides for a reduced (up to 12) number of wood-fueled beach fire devices, which for City-supplied devices would be cleaned by City staff or a contractor, and which for user-supplied devices, would include the installation of ash cans at beach access points for proper disposal of coals and ash. The program would also allow wide use of propane-fueled devices, which produce neither charcoal nor smoke, other than when used for grilling food. No charcoal-fueled (briquettes) fires would be allowed. The program would substantially reduce wood smoke and its associated public health hazards. It would also eliminate the accumulation of charcoal on the beach and into the marine environment. New signage would be designed and installed to inform beach users of the pilot program's beach fire rules. Signage would also include information on the locations of and hours of operation for City-supplied devices, the types of user-supplied devices that are permissible, and options for obtaining user-supplied devices. Staff from the Monterey Bay Air Resources District (MBARD) operated an air quality monitoring station on private property along Scenic Drive between May and December 2015, and collected data on particulate matter (PM-10) levels. Although the monitoring station has been removed, the City will continue to work with MBARD staff to evaluate the effectiveness of the program on maintaining acceptable air quality for beach goers, Scenic Road pathway users, and nearby residents. If wood smoke nuisance complaints persist, City staff would confer with MBARD staff regarding the reestablishing a monitoring station. As described above in Objective 0-1, both photographic and video footage would continue to be collected and evaluated to demonstrate the reduction of charcoal litter on the beach.

### **Reporting:**

During the pilot program, City staff will provide quarterly updates to the City's Forest and Beach Commission at scheduled public meetings on the status of the pilot program and receive public comment on the components of the program. Approximately two to three months before the end of

each year of the pilot program, a report will be presented before to the City's Forest and Beach Commission, City Planning Commission, and City Council, to assist in determining if changes to the pilot program should be made, or if sufficient information has been collected such that a permanent change to the City's beach fires management should be implemented. The report will be shared in draft form with Coastal Commission staff for input prior to City Council discussion of the program, and each year, a final year-end report will be provided to Coastal Commission staff for documentation.

## Fire Devices

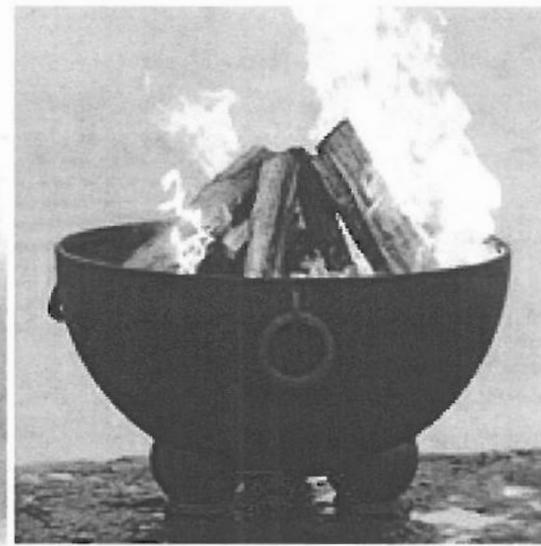
### Dimensions and Style

The initial City-supplied wood-fueled devices to be tested and used would be made from steel with approximate dimensions between 16-24 inches high and 30-48 inches wide. These devices weigh approximately 100-200 pounds and will be partially buried and secured in place. These devices are designed to remain fixed and not be moved to other locations by the public or special event organizers. The City may purchase and test two or more different units to gauge appearance, reliability, and ease of operation and will also designate approximately 2 to 4 of these devices as available for shared (community) use. During the first year of the program, the City will convene a review Committee to determine the preferred design or decide if the City should pursue a custom design for these City-supplied devices. Should the City shift to a user-supplied option for wood-fueled beach fire devices, these units would be portable, and smaller and lighter than the City-supplied options. Either wood-fueled device option would have a bottom and potentially a lid to keep the charcoal and ash contained and off of the beach. Ash cans would be provided and maintained by the City for proper disposal of wood charcoal and ash in the event that user-supplied wood burning units are allowed in a later phase of the program. These containers would be placed at the foot of beach access stairways for portions of the beach accessed by stairs and in the Del Mar Parking Lot should the City expand the area where beach fires are allowed to the Del Mar Parking Lot beach area. Flags, cones, or other markers would indicate designated areas for user-supplied wood-fueled devices.

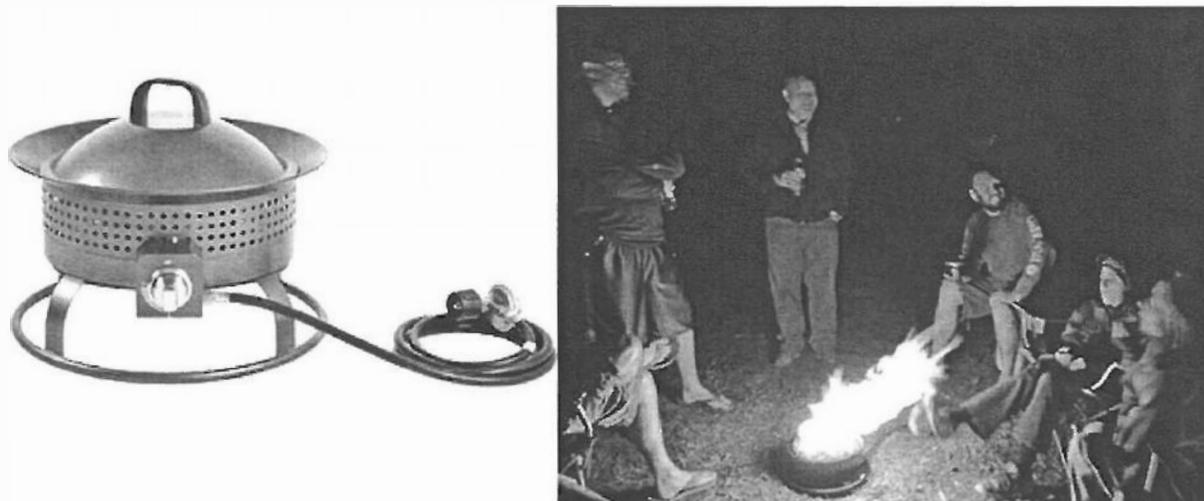
In addition, beach goers would be allowed to bring and operate user-supplied propane-fueled devices. These are typically smaller than the steel wood-fuel devices, and a variety of models are available from local hardware and garden stores. Propane tanks are also available in different sizes. City staff have identified several off-the-shelf models, and the City would disseminate information on

its website regarding a list of off-the-shelf options, their cost, where they can be obtained. The website may also provide for user feedback on performance of different off-the-shelf fire device options.

Pictured below are three examples of potential initial options for the City-supplied fire devices.



Pictured below are two examples of potential user-supplied propane-fueled fire devices.



### Usage

User-supplied propane-fueled devices would be allowed year-round and as close as 50 feet from the base of the coastal bluff. City-supplied wood-fueled fire devices would be provided in the summer and fall season only, restricted to areas a minimum of 50 feet from the base of the bluff and further out if possible, and limited to a maximum of 12 such units at designated locations. Users would be instructed to only use dry, cured wood, and no driftwood, pallets or other materials (such as Christmas trees, furniture, and trash). No trash, glass or other materials may be left in the device.

For the user-supplied wood-fueled device option, these would also be required to be at least 50 feet from the base of the bluff/toe of the dunes, and ash cans would be provided for proper disposal of charcoal and ash following use. Trash and recycling containers are conveniently located at each beach staircase access point (above the stair entrance on the Scenic Pathway/ Scenic Road).

### Hours of Use

Wood-fueled beach fire devices, whether City-supplied or user-supplied, would be allowed from 4 p.m. to 10 p.m., seven days a week during the portion of the year that the beach is wide enough to support such devices. Beach fires in user-supplied propane devices would be allowed from 4 p.m. to 10 p.m., seven days a week, and year-round.

## Availability

The initial plan for the majority of the City-supplied fire devices would be that they are available on a "first come, first served" basis and could not be reserved or held in advance for use except in limited circumstances associated with a properly-issued special event permit. The City would also initially designate approximately 2 to 4 of the units as community devices for shared use by beach goers, with the City potentially supplying the firewood for these community devices. In addition, one fire device may be reserved in association with the issuance of a special event permit from the City and in accordance with the City's special event policies. The City would limit this special event permit-related reservation to one of the devices on any given day. The City would also limit these reservations to no more than two such reservations in any given week and no more than four such reservations in any given month. The remaining City-supplied fire devices would be available for the general public. Should there be operational issues with the special event-related reservations, the City would adjust that component or eliminate it. Should there be operational issues with the first come, first served approach, the City would potentially increase the number of community devices and may also develop a reservation system for some or all of the City-supplied devices. The City would consult with Coastal Commission staff on the specifics of any such program adjustment. Should the user-supplied wood-fueled option be implemented, the availability would be similar: on a first come basis, except as associated with a properly-issued special event permit.

## Exceptions

During the holiday weekends of July 4<sup>th</sup> and Labor Day, to meet peak beach fire demand, the City may set up a program to distribute up to 25 additional portable propane-fueled devices for public rental. The fee for use would be reasonable: on the order of \$20-\$50 for the day. These could be made available at a temporary station such as a trailer or similar mobile facility located at a suitable location. Potential locations include in the Del Mar Parking Lot, at the intersection of g<sup>th</sup> Avenue and Scenic Road, or a similar location. This component would only be developed and implemented if other means of sales or rentals of user-supplied units are determined to be inadequate by the City in consultation with Coastal Commission staff. This component may constitute commercial activity in the shoreline area, which is currently prohibited under the City's Municipal Code. As such, the implementation of such a rental component, if made permanent, may require a Zoning Ordinance Amendment and Local Coastal Program Amendment.

## Cleaning

Over several months in 2015, air quality data was collected along with photographic and video footage of beach conditions (sand quality). The August 2015 implementation of the City's Interim Moratorium on weekend wood-fueled beach fires has reduced air pollutant levels and has resulted in a lower rate of accumulation of charcoal on the beach. However, there still are areas of charcoal that could be further

cleaned using sifting devices and small equipment (above the kelp line and in the corridor where the devices will be located). The City may undertake these additional cleaning measures in advance of installing City-supplied fire devices. Regular cleaning of the City-supplied devices would be required. It is anticipated that the devices would be cleaned at least 3 or 4 days a week, and this cleaning would be done by City staff or a City contractor.

If the user-supplied wood-fueled device option is implemented, the City would arrange for regular (at least 3 or 4 times weekly) emptying of the ash cans, and would also need to periodically clean up spills of charcoal and ash, whether inadvertent and partial or intentional. The City will maintain a record of how many charcoal spills are noted on a quarterly basis and report on these.

### **Hazard Avoidance**

The program includes hazard avoidance guidelines and trigger points for the timely removal of City-supplied fire devices prior to the devices being threatened by high tides, large storms, and wave action. The intent of this program component is to make fire devices available as long as possible throughout the year while being cognizant of shoreline hazards and protective of sensitive environmental resources (i.e., air and water quality).

Beach width and the upper reach of the wash of the waves vary throughout the year and from season to season. In general, the beach is widest in the summer months and narrows considerably in the winter storm season, when storm-induced waves erode the berm and lower the beach profile. The extent and timing of winter beach scour varies from season to season. In some winters, the beach is nearly completely scoured out, such that the wash of the waves is all the way up to the base of the bluff. In milder winters, there are areas of the beach that are never scoured out, particularly in the more landward and protected areas of the beach, such as near Tenth Avenue. In the typical winter, however, most if not all, of the fire devices would be threatened by scour.

Initially, it is anticipated that the City-supplied beach fire devices would be in place for use during the peak beach use season: from March 1 to November 1. This is typically when the threat from shoreline hazards is lowest. The beach fire devices may be retained for some period beyond the March 1 to November 1 period, provided that favorable weather conditions and a low threat of storm-driven wave inundation continue. Outside the peak periods (i.e., November 1 through March 1), the City-supplied fire devices will be removed from the beach to avoid potential hazards and inundation. At the beginning of the winter storm season (on or about November 1), City staff will monitor the condition of the beach at least weekly, including measuring the width of the beach berm in the vicinity of the fire devices. Beach fire devices would be removed or relocated prior to being threatened by wave-induced beach scour and/or inundation.

The initial threshold for removal of a device would be if the upper wash of the waves is within 10 feet of the device. If this distance, in practice, does not provide sufficient time for City staff to remove the device, a larger distance may be established. Management of the City-supplied fire devices may be modified in response to extreme ocean conditions. If, there is an unusually early or heavy winter storm

season, such that wave-induced scour threatens to undermine the fire devices, City staff would remove any threatened devices earlier in the year. Similarly, if a heavy winter storm season delays the post-winter recovery of the beach, the City may delay the springtime installation of some of the devices.

In addition, if there is an extraordinary storm or high-wave event forecasted outside of the target use period, the devices would be removed and returned as soon as it is practical. Both the threshold for removal and replacement timing would be components that the pilot program will further develop.

## Locations

The initial locations for the City-supplied wood-fueled devices would be near the stairways at 10th, 11th, 12th, 13th and Santa Lucia. All locations would be at least 50 feet from the base of the bluff. Utilizing adaptive management, the location (or designated location in the case of the user-supplied wood-fueled option) of the devices may be adjusted as needed due to topography of the beach, wave and tidal activity, or to better meet the needs of beach users. A map of access points and approximate locations for the City-supplied devices are contained in Figure 1. User-supplied propane fire devices would be allowed from Martin Way to Tenth Avenue with a setback requirement of at least 50 feet from the base of the bluff.

## Public Education and Enforcement

Public education and outreach would be a key component of the pilot program. The City would develop and distribute public education materials to try to reach the public regarding the pilot program and the new beach fire rules before they arrive at Carmel Beach. In addition, the City would use a combination of private security staff and a dedicated police beach patrol officer to educate the public about the rules, gather data and assist in monitoring the effectiveness of the pilot program. The use of docents and other volunteers to help explain the rules to the public may also be added as part of the communication strategy.

**Online Information:** Both the City's website and other associated websites, such as the Carmel Chamber of Commerce and the Monterey Visitors and Convention Bureau, would be updated to reflect the use of the allowed fire devices and other beach rules. The City would also reach out to other website providers that are geared toward activities at California beaches and travel-related sites to explain the new rules and request assistance in providing updated information to the public.

**Other Sources of Information:** Press releases to local newspapers and television stations would also occur regarding the beach rules and the use of both City-supplied and user-supplied beach fire devices, as well as outreach to schools, colleges and community groups. The

hotel industry would be contacted and given informational cards that could be provided to guests about the beach fire rules. Local grocery stores would be provided information to distribute to customers, including information regarding where user-supplier propane devices could be purchased or rented, and where propane tanks can be refilled.

**Signage:** Signage would be installed that provides information regarding allowed devices and the locations where fire devices are allowed. Locations for new signage would include the Del Mar parking lot, at the beginning of the Scenic Road pathway (Scenic and 8<sup>th</sup> Avenue), at the beach access stairways along Scenic, and at both ends of the 4<sup>th</sup> Avenue beach access pathway. Informational signage regarding the purpose of the pilot program and the rules and restrictions would be installed at key locations starting at the Del Mar Parking Lot. As the northern limit for beach limits may change under the Pilot Program, the Del Mar area, the 8<sup>th</sup> Avenue access, and the 10<sup>th</sup> Avenue access as appropriate would have a marker to delineate and differentiate where fires are allowed and not allowed. Signage indicating the use of fire devices, with a simple message such as "wood fires only in City-supplied fire devices" or (for the winter season) "propane fires only." Signage would be placed near the staircases and other beach access points. Such signage would be installed in locations that minimize obstructions of coastal views, e.g. on railings, near the side of the staircases and/or, on landings half-way down the beach staircases. Signage materials for the pilot program may be metal; however, permanent (post-pilot program) signage would be simple, rustic, and primarily made of wood, in keeping with Carmel's existing aesthetic. Universal symbols would be used where appropriate. Specific sign designs for the pilot program would be developed within approximately the first two or three months of the program's approval and presented to the Planning Commission for review and approval of sign design.

**Messaging:** The City's public education materials and signage program would explain the purpose of the pilot program, which is to encourage responsible and safe beach use while protecting the character of Carmel Beach and the resource values of the beach environs (i.e., ambient air and water quality).

**Personal outreach/contact:** The City intends to use a combination of police staff, private security staff, and volunteers to explain the rules to the public. The City has recently provided for a beach patrol police officer staffing from 5 pm to 11 pm, seven days a week. This officer is dedicated to patrolling the beach and will be on site to address issues regarding violations of beach fire rules. Private security officers, if retained to assist with beach fire management, would be trained by the Carmel Police Department regarding the beach fire rules, and would serve as a friendly and helpful educational resource to explain the rules to the public. The City also plans to utilize local volunteers, some stationed at the beach staircases, and others walking the beach, to explain the rules, help notify the public about the availability of City-supplied fire devices or the allowable location of user-supplied fire devices, track data regarding where beach users are from (in order to help target additional public education and outreach), and document compliance with the beach fire rules. These volunteers may also provide other observations about the pilot program in general. The volunteers would carry and distribute informational cards that explain the rules to members of the public. The cards would have a comment suggestion and link to a comment form on the City's website and an email address so the public can provide feedback on the pilot program.

Figure 1: Map of Carmel Beach Access Points and Potential Initial City-Sponsored Fire Device Locations



**MINUTES  
CITY COUNCIL REGULAR MEETING  
CARMEL-BY-THE-SEA  
Tuesday, April 5, 2016**

Mayor Burnett called the meeting to order at 4:35PM.

**ROLL CALL**

Present: Council Members Beach, Dallas, Talmage, Theis and Mayor Burnett

Absent: None

Staff Present: Chip Rerig, City Administrator  
Don Freeman, City Attorney  
Mike Calhoun, Public Safety Director  
Rob Mullane, Public Works Director  
Marc Wiener, Senior Planner  
Jacob Clifford, Police Officer  
Joseph Martis, Community Services Officer  
Ashlee Wright, City Clerk

**EXTRAORDINARY BUSINESS**

Michael Doyle, Jr. provided a progress update on the Scout House project completed by the Boys Scouts.

Mayor Burnett led the Council and community in a moment of silence to honor the passing of Erl Lagerholm.

Rob Mullane, Public Works Director introduced Demonic Marquez, Maintenance Worker. Mike Calhoun, Public Safety Director introduced Jacob Clifford, Police Officer, and Joseph Martis, Community Services Officer.

Chip Rerig, City Administrator presented a certificate of appreciation to Council Member Victoria Beach to commemorate her service on the Council. Mike Calhoun, Public Safety Director presented a certificate of appreciation for Mayor Jason Burnett to commemorate his service on the Council.

**ANNOUNCEMENTS**

Mayor Burnett and Council Member Beach provided clarification and reasoning for posting for a Special Meeting that was then cancelled.

Don Freeman, City Attorney announced the Closed Session items and stated that Council had received updates and provided direction. He provided an update on Short-term Rental enforcement and stated that staff was also working on addressing the issue of aggressive sales people in the public right-of-way.

Chip Rerig, City Administrator, announced that at the previous night's meeting the Council had authorized an agreement with Accela for implementation of a financial system, a major milestone in rebuilding the City's technological infrastructure.

Mayor Burnett appointed Tom Brocato to the Centennial Committee.

Sue McCloud, Tom Brocato and Barbara Livingston provided an update on Centennial Committee activities.

Council Members Theis and Beach provided an update on progress on evaluating firms to conduct facilitated management evaluations for the City Administrator and City Attorney.

Council Member Dallas recommended that community members view the historic display at the First Murphy House.

### **PUBLIC APPEARANCES**

The following members of the public spoke during public appearances:

- Karen Ferlito
- Mayor Jerry Edelen
- Ellen Gannon
- Barbara Livingston
- Bob Profeta
- Teresa Bradford
- Judy Refuerzo
- Denise Otterson
- Carolina Bayne
- Lynette Zimmerman

---End Public Appearances---

Don Freeman, City Attorney and Mayor Burnett provided clarifications on issues and questions raised during public appearances.

### **ORDERS**

Item 7: Presentation of a Resolution of Appreciation of Jason Burnett from Dave Stoldt of the Monterey Peninsula Water Management District.

Dave Stoldt, General Manager of the Monterey Peninsula Water Management District presented Mayor Burnett with a Resolution of appreciation of the Monterey Peninsula Water Management District.

Public Comment - None

No Council action was taken.

Item 8: AB 1115 Consideration of the approval of a Beach Fires Pilot Program and provide direction to staff to return to Council in May with a Coastal Development Permit.

Rob Mullane, Public Works Director, provided the staff report.

Council discussion followed and Rob Mullane, Public Works Director responded to Council questions.

#### Public Comment

Lynette Zimmerman, Roy Thomas, no name given, Robert Kessler, Margaret Eaton, Deborah Stevens Ledger, Fermin Sanchez, no name given, Skip Lloyd, Richard Kreitman, Denise Otterson, Hugo Ferlito, Judy Refuerzo, Catherine Stitz, Brandon Cassickey, Laurie Salache McPherson spoke on this item.

Mayor Burnett called for a recess at 7:40PM. The meeting was resumed at 7:50PM and public comments were resumed.

Gerald Dudley, Barbara Livingston, Jeanne McCullough, Dave Mosely, Gary Bang, Kathy Bang, Lynn Ross, Nancy Chera Garcia spoke on this item.

A brief recess was taken and the meeting was then resumed.

Karen Ferlito spoke on this item.

---End Public Comment---

Don Freeman, City Attorney, provided clarifications.

Richard Stedman, Air Pollution Control Officer for the Monterey Bay Air Resources District, provided additional comments.

Council discussion followed.

Mayor Burnett called a recess at 9:05PM and the meeting resumed at 9:10PM.

Council discussion followed.

Action: Upon a motion made by Council Member Beach, seconded by Council Member Dallas, Council moved to provide direction to staff on a revised Beach Fires Pilot Program:

- Effective this summer and lasting 3 years.
- Adaptive management evolving as program progresses.
- Phase 1 is a restoration year of user supplied propane only devices limited to areas south of 10<sup>th</sup>
- No more unlimited wood fires.
- No more wood fires on sand.
- Add initial, thorough sand sifting & cleaning from north to south boundary.
- During phase 1, workshop possible wood fire containment devices, expansion of area, other means of expanding access, or other modifications for phase 2

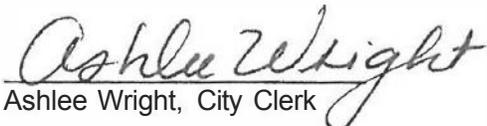
- Eliminate existing moratorium on weekends and holidays.
- Eliminate city provision of individual devices & six public devices.
- Encourage the private sector to offer rental devices.
- Recommend use of devices with a UL rating.
- Reduce reports from monthly to semi-annual.
- Written legal, insurance, fire, and public safety opinions.
- Confer with Cities in southern CA that have completed similar projects.
- CEQA review.
- Include enforcement plan.
- Include communications plan.
- Explore options for monitoring access.
- Document process undertaken for the development of Carmel's Pilot Program.

There being no further business, Mayor Burnett adjourned the meeting at 9:35PM.

APPROVED:

  
Steve Dallas, Mayor

ATTEST:

  
Ashlee Wright, City Clerk

**MINUTES  
CITY COUNCIL SPECIAL MEETING  
CARMEL-BY-THE-SEA**

**Monday, June 6, 2016**

**CALL TO ORDER**

Mayor Dallas called the meeting to order at 2:30PM.

**ROLL CALL:**

Present: Council Members Hardy, Reimers, Richards, Theis and Mayor Dallas

Absent: None

Staff Present: Chip Rerig, City Administrator  
Marc Weiner, Senior Planner  
Ashlee Wright, City Clerk

**TOUR OF INSPECTION**

The Council proceeded to the Carmel Mission located at the southwest corner of Rio Road and Lasuen Drive to conduct the Tour of Inspection.

**CLOSED SESSION**

The Council reconvened in the Council Chambers at 3:30PM and Mayor Dallas announced the Closed Session items.

Present: Council Members Hardy, Reimers, Richards, Theis and Mayor Dallas

Absent: None

Staff Present: Chip Rerig, City Administrator  
Don Freeman, City Attorney  
Ashlee Wright, City Clerk

**Item 1: CONFERENCE WITH LEGAL COUNSEL- EXISTING LITIGATION**

Pursuant to Government Code Section 54956.9(0)(1)

Name of Case: Jennifer Da Silva, Plaintiff v. City of Carmel-by-the-Sea, Monterey County Superior Court Case No. M132929

**Item 2 CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Pursuant to Government Code Section 54956.9(0)(1)

Name of Case: City of Carmel-by-the-Sea, Plaintiff v. Pacific Harvest Seafood, Inc. - Monterey County Superior Court Case No. 15CV000014

Item 3 CONFERENCE WITH LEGAL COUNSEL- EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(0)(1)

Name of Case: Gerit Sand; Cobblestone Bakery, a sole proprietorship, Plaintiff v. City of Carmel- by-the-Sea, Defendant - Monterey County Superior Court Case No. M130393

Item 4: LITIGATION ONE MATTER

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation and Order to Show Cause on the Commission's Own Motion into the Operations and Practices of Pacific Gas and Electric Company with respect to Facilities Records for its Natural Gas Distribution System Pipelines.

Investigation 14-11-008 (Filed November 20, 2014)

Item 5: LABOR NEGOTIATIONS

Pursuant to Government Code Section 54957.6(a)

Agency Designated Representatives: Zutler

Employee Organization: Ambulance

There were no public comments. Council adjourned to Closed Session at 3:32PM.

**OPEN SESSION**

Council Resumed in Open Session at 5:30PM.

Present: Council Members Hardy, Reimers, Richards, Theis and Mayor Dallas

Absent: None

Staff Present: Chip Rerig, City Administrator  
Don Freeman, City Attorney  
Ashlee Wright, City Clerk  
Margi Perotti, Community Activities Assistant  
Rob Mullane, Public Works Director  
Sharon Friedrichsen, Director of Budgets and Contracts  
Marc Weiner, Senior Planner  
Paul Tomasi, Police Commander  
Mike Calhoun, Public Safety Director

City Attorney Don Freeman announced that Council received updates on Closed Session Items 1, 2, 3, and 5 with no action taken and received an extensive update on Item 4, gave staff direction.

City Administrator Chip Rerig led the Pledge of Allegiance.

**PUBLIC APPEARANCES**

The following members of the public spoke during public appearances:

- Karen Ferlito

---End Public Appearances---

## CONSENT AGENDA

Upon a motion made by Mayor Pro Tem Theis, seconded by Council Member Hardy, Council unanimously approved the Consent Agenda with the exception of Items 4, 5, 6, 9, 10, and 12 as follows:

Item 1: Check Register for the Month of April. **Approved, 5:0**

Item 2 Monthly Reports for the Month of April. **Received, 5:0**

- a. Contracts executed within the City Administrator's Signing Authority
- b. Community Planning and Building Department Reports
- c. Police, Fire, Ambulance and Beach Reports
- d. Public Records Act Request Logs - City Clerk and Police
- e. Forester's Report
- f. City Treasurer's Report

Item 3: AB 1127 Consideration of a resolution authorizing the City Administrator to execute the updated Monterey County Multi-jurisdictional Local Hazard Mitigation Plan (LHMP). **Adopted Resolution 2016-040, 5:0**

Item 7: AB 1131 Receive fully revised and approved Forest Theater Use Agreement for informational purposes. **Received, 5:0**

Item 8: AB 1132 Appointments to Board and Commission vacancies. **Ratified, 5:0.**

Item 11: AB 1135 Authorize the City Administrator to Execute Various Professional Services Agreements for Beach Security, Code Compliance in a Total Amount Not to Exceed \$67,000 **Adopted Resolutions 2016-033 and 2016-034, 5:0**

Mayor Dallas announced the new appointees to the Boards and Commissions.

*The following items were pulled by members of the public or by a Council Member and taken up separately:*

Item 4: AB 1128 Consideration of a Resolution Approving the Rates Charged by GreenWaste Recovery Effective July 1, 2016 for the Collection of Franchised Solid Waste, Recycling and Organics.

Sharon Friedrichsen, Director of Budgets and Contracts, responded to Council questions and provided clarifications.

Public Comment:

Monta Potter spoke on this item.

---End Public Comment---

**Action:** Upon a motion made by Council Member Hardy, seconded by Mayor Pro Tem Theis, the Council unanimously moved to adopt a resolution approving the rates charged by GreenWaste Recovery Effective July 1, 2016 for the Collection of Franchised Solid Waste, Recycling and Organics. **Adopted Resolution 2016-027, 5:0**

Item 5: AB 1129 Consideration of a resolution adopting updated Facility Use Guidelines for the J. O. Handley Lumberyard Community Room/Nista Lobos Facility.

Public Comments:

Sue McCloud spoke on this item and noted a correction to be made to the name of the facility.

---End Public Comments---

**Action:** Council unanimously moved to adopt a resolution updating Facility Use Guidelines for the J. O. Handley Lumberyard Community Room/Nista Lobos Facility. **Adopted Resolution 2016-028, 5:0**

Item 10: AB 1134 Consideration of the Adoption of a Policy to establish a Records Management Program for the Preservation, Protection, Retention, and Legal Disposition of the City's Records.

Public Comments:

Sue McCloud spoke on this item.

---End Public Comments---

**Action:** Council unanimously moved to adopt a policy to establish a Records Management Program for the Preservation, Protection, Retention, and Legal Disposition of the City's Records. **Adopted Resolution 2016-032, 5:0**

Item 12: AB 1136 Consideration of a Lot Line Adjustment (LLA 15-354) between the City of Carmel-by-the-Sea and the Roman Catholic Bishop of Monterey.

Public Comments

Sue McCloud spoke on this item.

---End Public Comments---

**Action:** Council unanimously moved to approve the Lot Line Adjustment (LLA 15-354) between the City of Carmel-by-the-Sea and the Roman Catholic Bishop of Monterey. **Approved, 5:0**

Item 9 AB 1133 Consideration of a Resolution Confirming the City's Appointments to Local Agencies: Association of Monterey Bay Area Governments (AMBAG), Fort Ord Reuse Authority (FORA), Monterey Peninsula Regional Water Authority (MPRWA), Monterey-Salinas Transit (MST), and Transportation Agency of Monterey County (TAMC), and others as determined.

Public Comments:

Sue McCloud spoke on this item.

---End Public Comments---

City Attorney Don Freeman provided clarification.

**Action:** Upon a motion made by Council Member Hardy Council, seconded by Council Member Richards, Council unanimously moved to adopt a resolution confirming the City's appointments to Local Agencies: Association of Monterey Bay Area Governments (AMBAG), Fort Ord Reuse Authority (FORA), Monterey Peninsula Regional Water Authority(MPRWA), Monterey-Salinas Transit (MST), and Transportation Agency of Monterey County (TAMC), and others as determined, with the addition of the word "may" to the second whereas in the resolution.

**Adopted Resolution 2016-031, 5:0**

Item 6: AB 1130 Consideration of the adoption of a resolution authorizing the Homecrafters' Marketplace craft fair to continue to be held in the Sunset Center north parking lot, closure of the north parking lot, closure of San Carlos between 8<sup>th</sup> and 1Q<sup>h</sup> Avenues, and amplified music at the venue, and the adoption of a resolution authorizing the Pumpkin Roll special event to continue annually and the closure of Ocean Avenue west of Santa Rita Street to Junipero Avenue; Santa Fe Street between Ocean Avenue and Mountain View Avenue; and Torres Street between 6<sup>th</sup> Avenue and Mountain View Avenue.

Margi Perotti, Community Activities Assistant, responded to Council questions and provided clarifications.

Public Comments - None

**Action:** Upon a motion made by Council Member Hardy Council, seconded by Council Member Richards, Council unanimously moved to adopt a resolution authorizing the Homecrafters' Marketplace craft fair to continue to be held in the Sunset Center north parking lot, closure of the north parking lot, closure of San Carlos between a<sup>th</sup> and 1o<sup>th</sup> Avenues, and amplified music at the venue for a trial basis of one year, and the adoption of a resolution authorizing the Pumpkin Roll special event to continue annually and the closure of Ocean Avenue west of Santa Rita Street to Junipero Avenue; Santa Fe Street between Ocean Avenue and Mountain View Avenue; and Torres Street between 6<sup>h</sup>Avenue and Mountain View Avenue.

**Adopted Resolutions 2016-029, 2016-030 5:0**

## ORDERS

Item 13: AB 1137 Direction on Preferred Plan for Replacement of the City's Holiday Tree.

Rob Mullane, Public Works Director, and David Refuerzo, Forest and Beach Commissioner provided the report, responded to Council questions and provided clarifications.

Public Comment

Sue McCloud, Karen Ferlito, and Denise Otterson spoke on this item.

---End Public Comment---

Council discussion followed.

Action: Upon a motion made by Mayor Pro Tem Theis, seconded by Council Member Hardy, Council unanimously moved to approve the Forest and Beach subcommittee recommendations to replace the current holiday tree by planting a large (48" box) tree in the southeast corner planter of Devendorf Park with a Deodar Cedar, and that the City continue to decorate the current holiday tree until the new tree is sufficiently large or until the existing tree is removed, with the added amendment to refer to the tree as the Centennial Tree. **Approved, 5:0**

## **PUBLIC HEARING**

Item 14: AB 1138 Beach Fires Revised Pilot Program Coastal Development Permit Approval.

Rob Mullane, Public Works Director, provided the staff report, responded to Council questions and provided clarifications.

Public Comment:

Lynette Zimmerman, Tricia Dalley, Maggie Eaton, Wayne Moon, Parker Logan, Lynn Ross, Karen Ferlito, Glen Nash, Christine Ellison, Katherine Watikowski, Gary Bang, Sue McCloud, and Denise Otterson spoke on this item.

---End Public Comment---

Council discussion followed.

**Action:** Upon a motion made by Council Member Hardy, seconded by Council Member Richards, the City Council of the City of Carmel-by-the-Sea moved to adopt the findings and conditions of approval for a Coastal Development Permit for the Beach Fires Pilot Program with revisions to the program as follows: wood-fueled devices would be permitted from the outset; wood-fueled devices would initially be City supplied; up to twelve (12) wood-fueled devices will be permitted; neither propane devices nor wood-fueled devices will be permitted north of 10th Avenue; wood-fueled and propane fueled devices will be permitted 4:00PM to 10:00PM; wood fueled devices and propane fueled devices will be permitted a minimum of fifty (50) feet from the beach bluff; no additional wood-fueled devices will be permitted on holidays; and the City will consider city-supplied wood.

**FUTURE AGENDA ITEMS** - None

## **ADJOURNMENT**

There being no further business Mayor Dallas adjourned the meeting at 8:15PM.

APPROVED:

ATTEST:

\_\_\_\_\_  
Steve G. Dallas, Mayor

\_\_\_\_\_  
Ashlee Wright, City Clerk

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
725 FRONT STREET, SUITE 300  
SANTA CRUZ, CA 95060  
PHONE: (831) 27-4863  
FAX: (831) 27-4877  
WEB: WWW.COASTAL.CA.GOV



May 9, 2016

Mayor Steve Dallas and City Council Members  
City of Carmel-by-the-Sea  
P.O. Drawer G  
Carmel by the Sea, CA 93921

**Subject: Carmel Beach Fire Management Program**

Dear Mayor Dallas and Council Members:

As you move forward with your deliberations regarding a new beach fire management program for the City, we wanted to take this opportunity to share with you a few thoughts from our perspective. These will come as no surprise given they echo the comments we have consistently provided to the City, including in our comments to your staff since the Commission's hearing on the City's then proposed program in December 2015. At that time, as you are aware, the Commission rejected both the City's proposed propane-only beach fire management program and the staff recommended wood-only program, leaving the issue of beach fires in Carmel unresolved. Several Commissioners made comments acknowledging potential health hazards from wood smoke while also recognizing the importance of the public being able to gather around a beach fire. They also asked that we (staff) work with the City to develop a program that addresses potential issues while still providing for traditional beach fire opportunities at Carmel Beach.

Since the December 2015 hearing, we have continued to work with your staff on potential program elements, and would strongly suggest that the City pursue a hybrid program at this time. Such a program would provide for both wood fueled fires, as have been enjoyed for decades in Carmel, as well as a pilot program for propane fires. We believe that such a program can strike the appropriate balance at Carmel Beach, and we would be more than happy to work with your staff on its particulars. We do not support an all propane alternative. We think such particulars should include a specific number of City supplied wood fire rings (e.g., 12 to 15) available for use between the hours of 7am and 10pm daily, provisions for users to have easy access to other fire containment devices near the beach (e.g., barbeque, hibachi, or similar), and provisions for users to have easy access to propane fire devices as well. Importantly, we strongly believe that any such program needs to make sure that fires are no longer made directly in the sand, but rather are required to be contained, and the areas around them regularly cleaned and maintained. With that change, we also suggest that the program area be expanded to the north (e.g., to the Del Mar parking lot area) to distribute use across the beach. We also support a robust monitoring component to allow for adaptation over time. We envision a short term permit with monitoring and reporting mechanisms, and an LCP amendment to codify the program once its parameters

**Mayor Steve Dallas and City Council**  
**Carmel Beach Fire Management Program**  
**May 9, 2016**  
**Page 1**

were more clearly established at the other end. (See also our recommendations from the December Commission hearing which contain many of these components.) We think we can all find a successful middle ground, and would welcome discussion along those lines.

We would suggest that such a program be put in place as soon as possible, including because absent such a program the current status quo applies: namely, unlimited wood-fueled beach fires are allowed directly in the sand on Carmel Beach south of Tenth Avenue every day. On this point we again note that the City's current weekend and holiday ban remains unpermitted and unenforceable, and we would suggest that in tandem with developing the new program, the City takes steps to discontinue this ban as soon as possible.

We would very much welcome the opportunity to work with your staff in the manner identified above, and would appreciate your direction to them to this effect as soon as possible. The busy summer recreational season is almost upon us, and we would very much like to make some progress quickly in this respect, including so that we can stand together in agreement when the City takes the requisite CDP action.

Please don't hesitate to contact me at our Santa Cruz office if I or my staff can help in any way to move such a beach fire management program to fruition. Thank you for your consideration.

Sincerely,



Dan Carl  
Central Coast District Director  
California Coastal Commission

cc: Chip Rerig, City of Cannon-by-the-Sea City Manager  
Mate Weiner, City of Carmel-by-the-Sea Acting Planning Director  
Rob Mullane, City of Carmel-by-the-Sea Public Works Director



**FINDINGS FOR APPROVAL:**

After taking public testimony and hearing evidence from the City staff, the Planning Commission makes the following findings:

- 1 **Finding:** The program is consistent with the City's General Plan, including the Local Coastal Plan (LCP), and the inherent balance between coastal access and environmental protection. The program is consistent with LCP Goal G4-1: "Provide for maximum public access to, and recreational use of, the shoreline consistent with private property rights and environmental protection."

**Evidence:** The development (proposed installation of up to 12 wood-fueled beach fire devices, temporary signage, and the potential installation of a limited number of appurtenant structures such as delineators and ash cans) will be located near the beach staircases and will not impede public access to the sea or along the shoreline. The recreational opportunity to build a wood fire will be maintained in designated areas via the fire containment devices or for the user-supplied option, if implemented, via delineators, small flags, or other demarcation devices. Propane-fueled fires will continue to be allowed and will not have a cap on the number of propane devices. These components will allow fires to continue to occur, while possibly allowing greater use of other areas of the beach for different recreational uses. Under the existing rules, unlimited fires may be built directly in the sand anywhere south of Tenth Avenue and 25 feet from the base of the bluff, which may curtail access to areas of the beach due to the presence of beach fires, hot coals, or charcoal. The program includes provisions for timely and a phased removal of any City-supplied wood-fueled devices in the event that they are threatened by winter beach scour in order to maximize the duration over the year that the devices are available for use while avoiding hazards due to undermining, displacement, or flooding of the devices. Propane-fueled devices will be allowed year round.

- 2 **Finding:** The program is consistent with LCP Goal G4-3, which states: "Provide adequate facilities that will serve the needs of the public, mitigate damage to the environment and respect the neighborhood" and Goal G4-4, which states: "Provide for a wide variety of passive and active recreational experiences for all beach users while protecting the resource values of beach environs."

**Evidence:** The proposed use of up to 12 wood-fueled beach fire devices in addition to propane-fueled fire devices is intended to serve the needs of public beach goers for beach recreation (i.e. allow recreational fires); mitigate damage to the environment (specifically sand, ocean and air) and respect the neighborhood by developing, implementing, and refining through adaptive management program components that would better manage the number of wood beach fires and the associated health and safety hazards resulting from

improperly extinguished fires and impacts from wood smoke. The proposed hours for beach fires of 4 p.m. to 10 p.m. continues to provide for recreational beach fires in the late afternoon and evening, which are typically the times of the day where such fires are desired, while providing for a smoke-free beach and shoreline area experience for other times of day, such that people with health conditions or sensitivities to wood smoke can also enjoy the beach area. Better controlling the number and location of wood fires through the use of a limited number of properly-positioned fire containment devices or delineators for user-supplied wood-fueled devices is intended to respond to community concerns related to air quality impacts and hazards from hot coals on the sand, both of which interfere with the public's ability to enjoy walking and other recreational activities at the beach. The program's encouragement of the use of propane-fueled devices is similarly intended to reduce these impacts to both beach and shoreline area uses as well as residents with homes near the beach.

3. **Finding:** The program is consistent with LCP Objective 04-10, which states: "Allow beach users the opportunity to enjoy a fire for warmth or cooking, while protecting the sand from degradation."

**Evidence:** The proposed installation of 12 wood-fueled beach fire devices in addition to propane-fueled fire devices will allow for the continuation of fires for cooking and warmth while preventing fires from being built directly onto the sand as an effort to protect the sand from degradation due to charcoal, ash and burned logs. Additional propane-fueled devices could be available during peak holiday periods, and propane-fueled devices would be encouraged and continue to provide a coal- and charcoal-less alternative for beach fires. Both wood-fueled fire devices and propane-fueled devices would continue to be located south of Tenth Avenue; be located at least 50-100 feet from the base of the bluffs; and available for use between 4 p.m. and 10 p.m., parameters that are generally consistent with LCP Policy P4-57 and Chapter 17 of the City's Zoning Code. The pilot program is an adaptively management program with a duration of up to 3 years. Following the pilot program, the City would be evaluating if a Local Coastal Program Amendment is needed to adjust on a more permanent basis any of the rules and regulations related to beach fires.

4. **Finding:** The program is consistent with LCP Policy P4-56, which states: "Implement procedures and regulations for temporary events on the beach that will protect public access and environmental resources" and LCP Policy P4-62, which states: "Lower cost visitor and recreational facilities shall be protected and encouraged and where feasible, provided."

**Evidence:** The use of up to 12 fire containment devices or use of user-supplied wood-fueled devices at designated locations is proposed to be free and available for general use by the public on largely a "first come, first serve" basis, while approximately 2 to 4 of the devices being community devices for shared use. Both of these components are geared toward

ensuring equal public access to the use of the devices. In addition, for a limited number of temporary (typically one day or less) events on the beach that obtain from the City a Special Event Permit, one or two wood-fueled devices may be available or designated, in accordance with the City's special event permit process. Typically, no more than one such special event is allowed on any specific day, and this will ensure that the vast majority of devices remain available on a first come, first serve basis. In addition, an essentially unlimited number of propane-fueled devices would be allowed, with the cost to rent or purchase and supply such devices on a similar level as the cost of purchasing wood fuel.

5. **Finding:** The proposed project is categorically exempt from CEQA requirements, pursuant to Section 15311 of the State CEQA Guidelines. Exemptions under this section (Class 11 Categorical Exemptions) include construction or placement of minor structures accessory to existing facilities, including signage.

**Evidence:** The pilot program is a temporary program intended to reduce hazards to beach uses, to improve the aesthetics of the beach from uncontrolled and unlimited wood-fueled beach fires, and to improve air quality by more effectively managing beach fires. The program includes measures to remove City-supplied fire devices from the beach prior to the devices being threatened by seasonal beach scouring. Signage and appurtenant structures will be temporary and will follow the City's standards for other signage in the beach including review by the Planning Commission for size, location, design, and materials prior to installation to ensure that significant aesthetic impacts are avoided. The proposed wood-fueled fire devices and temporary signage do not present any unusual circumstances that would result in a potentially significant environmental impact.

**Approved by City Council on 6/30/16**

<b>Conditions of Approval</b>		
<b>No.</b>	<b>Standard Conditions</b>	
1	<p><b>Authorization:</b></p> <p>The implementation of a 3 year pilot program for improved management of beach fires on Carmel Beach. The pilot program includes installation of up to 12 seasonal City-supplied wood-fueled fire devices along the beach, temporary signage to inform the public of the City's beach fire regulations as well as specifics of the pilot program, ash containers if needed, cleaning of the devices and additional outreach, adaptive management of components of the program, and enforcement efforts by City personnel.</p> <p>The City-supplied wood-fueled fire devices will be installed in the spring or summer of each year of the pilot program, and some or all of these devices may be removed in the winter in advance of storm-generated beach scour based upon trigger dates and/or environmental conditions (i.e. upper wash of the waves is within 10 feet of the device, early or heavy winter storm season, such that wave-induced scour threatens to undermine the fire devices}.</p> <p>The City-supplied devices will be spaced out along the beach, at least 100 feet from the base of the bluffs between the Tenth Avenue beach access and Martin Way. Minor site preparation including raking of the areas where fire devices will be installed may be conducted prior to the installation of the fire devices. Devices will be regularly cleaned by the City using an all-terrain vehicle as well as hand and small power tools, with the possible use of a vactor truck as needed to clean the devices during times of heavy use.</p> <p>Other options that may be included during the pilot program: (1) Allowance of user-supplied propane devices on a year-round basis at least 50 feet from the base of the coastal bluff or toe of the dunes in areas between Tenth Avenue and Martin Way, and (2} City distribution or arrangement for distribution of additional portable propane-fueled devices for peak holiday weekends.</p> <p>Temporary signage will be installed at the following locations: near the restrooms at the Del Mar Parking Lot, adjacent to the Scenic Pathway at Scenic and Eighth, and at the top and/or bottom of each beach access stairway between Ninth Avenue and Martin Way. Temporary signage may also be installed at the 4<sup>th</sup> Avenue beach accessway.</p>	<b>v</b>

	<b>Special Conditions</b>	
1.	The pilot program shall include quantitative measures, such as before and after photo-documentation of beach sand cleanliness and aesthetics, the potential for quantitative measurements of air quality, and a mechanism for constituent feedback.	<b>✓</b>
2	At the beginning of the winter storm season (on or about November 1 <sup>st</sup> ), City staff will monitor the condition of the beach at least weekly, and ensure that any City-supplied seasonal beach fire devices are removed prior to being threatened by wave-induced beach scour.	<b>✓</b>
3	The specific scale, location, and design of the temporary signage will be reviewed and approved by the Planning Commission prior to installation of such signage.	<b>✓</b>
4.	Within 3 months of the first 12 months of the program, City Forest, Beach, and Parks staff will prepare and submit a report to the Forest and Beach Commission, Planning Commission, City Council and the regional office of the Coastal Commission discussing that year's program components.	<b>✓</b>
5.	The term of the coastal development permit is a maximum of three years.	<b>✓</b>

**From:** Rob Mullane  
**Sent:** Thursday, June 16, 2016 11:16 AM  
**To:** Ashlee Wright; Leslie Fenton  
**Subject:** FW: COMMISSIONER SHALLENBERGER on WOOD SMOKE IS A CARCINOGEN

**From:** Denise Otterson [<mailto:deotterson@yahoo.com>]

**Sent:** Thursday, June 16, 2016 11:02 AM

**To:** Steve Dallas Council <[sgdallas@yahoo.com](mailto:sgdallas@yahoo.com)>; Carolyn Hardy <[carolyn-hardy@sbcglobal.net](mailto:carolyn-hardy@sbcglobal.net)>; Jan Reimers <[janreimers@aol.com](mailto:janreimers@aol.com)>; Bobby Richards <[bobbyrichards6@gmail.com](mailto:bobbyrichards6@gmail.com)>; Carrie Theis <[carrie@hofsashouse.com](mailto:carrie@hofsashouse.com)>; Chip Rerig <[crerig@ci.carmel.ca.us](mailto:crerig@ci.carmel.ca.us)>; Rob Mullane <[RMullane@ci.carmel.ca.us](mailto:RMullane@ci.carmel.ca.us)>; PD CarmelPineCone <[mary@carmelpinecone.com](mailto:mary@carmelpinecone.com)>

**Subject:** COMMISSIONER SHALLENBERGER on WOOD SMOKE IS A CARCINOGEN

[commissioner Shallenberger, "wood smoke is a carcinogen."](#)



### Commissioner Shallenberger, "Wood smoke is a carcinogen."

"The science is in; the debate is over - wood smoke is a carcinogen." The California Coastal Commissio...

**From:** [Rob Mullane](#)  
**To:** [Ashlee Wright](#)  
**Subject:** FW: Comments re beach fire pilot program  
**Date:** Tuesday, May 31, 2016 10:28:08 AM

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-----Original Message-----

From: Maggie Eaton [REDACTED]  
Sent: Wednesday, April 06, 2016 4:19 PM  
To: Rob Mullane <[R!vullane@ci.carmel.ca.us](mailto:R!vullane@ci.carmel.ca.us)>  
Subject: Comments re beach fire pilot program

Hello Rob-- please share these comments with those responsible for the beach fire pilot program.

I think extending the area for propane-only fires is a good idea. It reduces the density of fires on the south end of the beach and provides more access for people who want a fire since they can park closer to the access points down to the beach.

Enforcing a UL requirement does not seem workable and I believe that the City's recommendation of UL rated devices is sufficient.

I don't think the City should build and maintain a fire pit mainly because there are more important ways to spend that money and staff time.

I think that an outreach to the local vendors who may wish to rent or sell the propane devices and tanks is a good idea. That way, all of them hear the same information at the same time. Also, the vendors can be advised that the City recommends UL rated devices and whatever other safety precautions the City recommends.

Thank you for the hard work that you and the staff have committed to this project.  
Maggie Eaton

**From:** Rob Mullane  
**To:** [Ashlee Wright](#)  
**Subject:** FW: public hearing on June 6, 2016 re: Beach Fire Management  
**Date:** Tuesday, May 31, 2016 12:47:49 PM

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-----Original Message-----

From: Katie Morganroth [REDACTED]  
Sent: Tuesday, May 31, 2016 11:49 AM  
To: Rob Mullane <[RMullane@ci.carmel.ca.us](mailto:RMullane@ci.carmel.ca.us)>  
Cc: Greg Morganroth [REDACTED]  
Subject: public hearing on June 6, 2016 re: Beach Fire Management

Dear Mr. Mullane,

We received the public notice regarding the public hearing scheduled on Monday, June 6, 2016 to consider a revised Coastal Development Permit for the City's Beach Fire Management Pilot Program. Unfortunately, we will be out of town for this meeting, but would like to formally submit our concerns about this new proposal. We are residents of Carmel-by-the-Sea and own the home on the corner of Scenic and Santa Lucia. This revised proposal of allowing wood-fire devices south of Tenth Avenue would directly impact us and our surrounding neighbors. It has been such a pleasure not having the beach fires. Our

7 year old son has severe asthma. As you can imagine, the ban of fires on the beach has allowed us to enjoy the evening in our front yard without worrying about our son using his inhaler nor frantically running inside and closing the windows when we start smelling the smoke from the beach. In short, these beach fires pose a serious health risk to our community. Now that our community has experienced the beauty of clean, sea air and pollution-free beaches, why would we reYert back? Secondly, the removal of beach fires has created a more orderly, less raucous crowd that we would often hear from our home late into the night. Frankly, these fires prevented us from the quiet enjoyment of our property. This is a right that each of the citizens in our community deserves. Please let me know how we can formally submit our opinion for this upcoming hearing. Thank you for your time and I look forward to hearing from you.

Sincerely,  
Katherine Morganroth  
NE Corner Scenic & Santa Lucia

From: [Rob Mullane](#)  
To: [Ashlee Wright](#)  
Cc: [kathleen bang](#), [Chip Rerig](#)  
Subject: FW: CCC letter  
Date: Wednesday, June 01, 2016 1:28:44 PM

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Please add to Attachment 6. Thanks.

From: kathleen bang [mailto:kathybang@me.com]  
Sent: Wednesday, June 01, 2016 12:44 PM  
To: Chip Rerig <crerig@ci.carmel.ca.us>; Rob Mullane <RMullane@ci.carmel.ca.us>; Steve Dallas Council <sgdallas@yahoo.com>; Carrie Theis <carrie@hofsashouse.com>; Jan Reimers <janreimers@aol.com>; Carolyn Hardy <Chardy824@gmail.com>; Bobby Richards <bobbyrichards6@gmail.com>  
Subject: CCC letter

Hello all. I am waiting to see the staff report to write about the proposed pilot program. However, I believe it is important to comment on the letter from the STAFF of the Coastal Commission.

While the contents of the letter are a clear reiteration of the long standing personal preference of the staff, it is not even close to the direction given to the staff by the Coastal Commissioners at the December meeting.

1. We attended the meeting, watched the video after, and transcribed the entire meeting.
2. CC **STAFF** are not accurately representing the direction they received from the Commissioners.
3. At no time did any Commissioner tell staff that Carmel Beach had to put 10-15 wood fires on the beach every day.
4. Rather, the Commissioners told staff to work with the city on a propane only pilot. They specifically noted that a wood-free approach in Carmel could be a model for the entire coast.
4. One Commissioner stated that wood fires restrict access for people with lung disease.

The staff persist in attempting to impose their personal agenda on Carmel Beach even after given conflicting and specific direction by the people appointed to the Commission to make decisions.

In case you did not hear the actual comments of the Commissioners here is a transcript of the discussion after the motions made to force Carmel Beach to put 26 fire rings on our beach ... :

Mary S.: Thank you. I shared, Commissioner Bochco's, concern about ... Here, we're kind of in a, in, in a terrible bind here because in the absence of us taking action on this, there is unlimited fires, and the county's moratorium is, as I understand it, we consider an enforcement issue.

- Mary S: But I have to say, you know, the science is in, the debate's over. Wood smoke is a carcinogen.
- Mary S: It just is, and so I do feel that, we, the Commission, up and down the coast, need to find healthy ways to allow people access to the coast. I also, share this disconnect between that fabulous presentation this morning on all of our, public information, and, .
- Mary S: ... that we would, in any way with a straight face, argue that wood smoke isn't harmful to, to health, and I'm not just concerned about the people whose houses are there. I'm concerned about encouraging an unhealthy, recreation on our beaches, and that's really what we're talking about when we have wood burning fires on the beach. It is an unhealthy recreation. Maybe I'm more passionate about this because my lungs are as compromised as they get, short of lung cancer. So when there's, wood burning smoke on the beaches ... and we have had many Coastal Commission meetings where, you know, there are ban-, bonfires burning, and I'm not able to walk on the beach on those days, so that's limiting my access, and it limits ... So we keep talking about these fires as public access, but, we have to ask, for whom?
- Who doesn't have access to the beach because they can't ... Their lungs will not permit them to go even walk on a sidewalk when there are a bunch of bonfires going. So that's the future. That's where we have to get to. Can we get there today? I'm kind of thinking maybe we can. I disagree entirely with staff about propane, canisters being liquid.
- Mary S; propane canisters ... There is liquid propane, and it's marked LP, liquid propane. Canisters of propane gas are compressed gasoline, compressed propane gas. When it gets compressed, it becomes a liquid in the canister. As soon as the pressure is released, in any way, it goes back to gas, and it is true that there will be many issues dealing with how are they stored? those are issues that we can't answer today but would be part of the study, part of the pilot program; what's a safe way to, um, maintain them?
- Mary S: But maybe I'm a lot more comfortable with propane because we heat our house with it. We cook with it. We use, you know, if handled properly, it, it, it's safe. So, but today we're left with, um ...
- Mary S: proposal that's before us that
- Mary S: ... it's, it's like, better than unlimited fires, but it's not as good as where we really, really have to get. So I didn't intend to say this, but I'm gonna support the motion with extreme discomfort and urge staff and the city staff, our staff, to go right back to work on coming up with a, a alternative project which does get rid of wood smoke. It's bad for public health, and I'm not the AQMD, but I know how my lungs feel when I'm in any place close to it. And do I think that's it's the only source? No, but that is not the standard. We absolutely cannot say, you know ... We wouldn't be regulating automobiles if we had to make sure ... which was the only source. The way we control air pollution ... and I also worked at the ARB for five years,
- Mary S: we control our air pollution to have clean air by controlling every single one of the sources that we can get a handle on, and this is one of the sources that we have to control. And I just want everybody on notice, I am urging staff to work hard to find a way to maximize public access to our beaches up and down the coast, not just on Carmel, which is good for public health. So, with that, I am, unfortunately, gonna support this ...
- Mary S: ... and urge staff to get to work immediately because the wonderful thing about Carmel, unlike some of the other, is they're prepared to plunk down the money to put this in, unlike a lot of other local governments who, um, are not able to do it. It's not their priority, or whatever. Carmel is saying, "We will step forward, and make it available." We will make these available to, people. I don't know how they're gonna do that, but this is a city who is willing to put down the money, and this is a perfect case for us to do a pilot pro-, us, you to do a pilot program.
- ..... (Jason Burnet spoke here)
- Wendy: Okay. Thank you for that. I just wanna say I agree with everything, Commissioner Shallenberger said, absolutely, a hundred percent. This is something that we need, we need to address. My concern here is that, you know, we're, the Coastal Commission is looking at an air quality issue, and that's not our purview. That needs to be done by the people that are experts. That's stretching our jurisdiction, and shouldn't be something that we're the deciding factor on.
- Wendy: So having said that, our charge, and the reason that we would put upon this pilot program of twenty-six, is because our charge is access. So if, if you say, "No, no beach bonfires, and no ability in the interim while we're looking at this and while experts are deciding on the air quality issue," that's against a-, this is our, that's our job, to, to stop that. So I will be supporting the motion. I appreciate what you're trying to do, and I think it's the right public policy direction. I think that actually this is an opportunity because it's such a small town, um, and we have a mayor that's obviously passionate about this issue, uh, for us to work on it, for us, for our staff to work on it, um, to work collaboratively, um, and make sure that we work out something that is actually, that it can be replicated around the state. I will say propane is a gas.

Wendy: Propane is a gas. It's not used for heating your home, but it is used for heating the lamps that we all use when we're dining outside in different restaurants, those are propane, and your gas fire pit, barbecue, so, you know, when I, my, I had my spouse turning it on one day, and trying to figure it out, and, you know, concerned he was going to blow himself up, and I said, "Look, they make these things so that drunk people can do it."

Wendy: "You're gonna be fine." They don't, you don't see drunk people blowing up all over when they're turning on their outdoor heaters. So propane is safe. It's used in a lot of different ways. It is, um, it does throw off warmth. I had a propane, um, fire pit at my old house.

Wendy: It's a gas. Let's work through this. I mean, we could come back with an LCP amendment. I don't, I don't know why there's such resistance to that from Carmel By the Sea.

Wendy: Um, but I would like to see this, you know, something worked out ...

Wendy: ... in a way that we can use, up and down the state because it is a, a public health issue and something that we need to come turns with and balance, so thank you.

Steve: Thank you. Commissioner Howell, then Commissioner Luevano.

Erik: thank you, Chair Kinsey. Um, I agree with everything that Commissioner, uh, Mitchell said. I'm a little confused about this whole thing, and, this issue of liquid gas, it feels like how many angels can dance ...

Female: Yes.

Erik: ... on the head of a pin. you're going the right direction policy-wise, so why aren't we just continuing this matter, letting the city of, uh, Carmel, go with their pilot program ...

Mary 5.: Moratorium it's called.

Erik: Well, we all agree that we shouldn't be burning wood, and, it's a carcinogenic. Why, why aren't we just letting them work it out and dealing with this in February?

Female: 'Cause February's too soon.

Steve: Thank you. Mitch-, Commissioner Luevano?

Mary L.: well, to cut the tension a little, I'm just gonna say we need a fire in here, clean, to keep this room warm. It's way too cold in here. Um ...

Mary L.: The question I had I think was answered by the mayor, which was I-, I'm looking at this data, and it's, from May of this year 'til October, so I'm assuming that between October and the end of April there aren't too many people burning fires on the beach. Is that ...

Female: There's no beach.

Mary L.: Yeah. Okay. All right. and given that that isn't an issue ... I, I mean, I would like to see this worked out.

Mary L.: Um, I would like to see the two sides come together. I understand the issue or the, the, the challenge that we're up against, but if there's a way that we can do that, I'd like to see that happen.

Steve: Thank you. Um, okay. I, I'll, I'll have, uh, just a few comments to make myself. You know, W-, what we're faced with is, um, our heritage versus our health o-, of our community. And, I think that, over and over again, we've seen, that ultimately the more we learn about healthy living, the more we take actions to ensure it, um, and, and that this is no, no different. I also think that, the scale of this community, this beach, the willingness of the city to be innovative really needs to be recognized and, and appreciated and that, um, while there may be need to be some more documentation around the, safety, I think it can be provided.

And while I don't wanna get ... I don't want my colleagues characterizing my comments around liquid or gas, uh, to impede the progress u-, ultimately, if an LCP amendment is needed to, to clean that up, that's not an enormously onerous task. I do think that this is a chance to work with a community that wants to be at the forefront of this issue and could help other California communities, um, that are gonna consider addressing it, and it doesn't take away, you know, a single marshmallow from being cooked, on the beach. so, in that regard, um, I would just say that I'm very comfortable with a continuance to allow for that, but, but I, I hear my colleagues, and their willingness to, uh, put the city into its legal situation.

I think if, if you do come back, whether it's, through a continuance or through a, a determination to change the permit that would be issued today, that it would be helpful to consider residential wood smoke and just be able to address that so that it doesn't appear that you're, you know, cherry picking where you wanna, improve the health of the community. and I don't know, but I'm, I'm assuming that there are not any other nearby locations where beach fires would be permitted or farther away from residential development, but certainly if there are, if there are locations where they would make more sense to allow them, then I think that it would be useful to bring that information forward. So, with that, and no other commissioners wishing to speak, uh, we have a motion ...

Steve: on the floor and ... Commissioner Shallenberger?

Mary S.: May I just ask staff, uh, I said, that I, for one commissioner, would like them, if we approved this, for them to go right back to work with the, with the city of Carmel to work on this pilot project. is that something that you're prepared and willing and have the resources to do?

Dan: Well, I think, um, yes, absolutely ...

Dan: ... at a basic level. But I also think there's a lotta questions associated with the program ...

Mary S.: I understand that.

Dan: ... that we need to work through.

Mary S.: That's not the question. The question is, will you be willing to sit down, you know, soon and continue to work on this, in a good faith way, because I think what you're hearing from the dias is that the Commission would like to go in that direction, and we would like to have this come before us as a proposal, um, using propane. 1; we're not comfortable with what we're voting on today.

Dan: No, and I w- ...

Mary S.: So my questions is, will you ...

Mary S.: ... do that in ...

Mary S.: ... good faith?

Dan: Yes. Absolutely. I, I want you to be assured that's something we've told the city of Carmel, so if you're getting an impression otherwise, that's, that's not an actual thing that's going on here. We're ...

Steve: Thank you.

Dan: We've been happy to work with the city on this.

Steve: Thank you. Uh, Vanessa, we have a motion. In a second, would you call the role, please?

Vanessa: Commissioner Bochco.

Dayna: I'm voting yeah.

Vanessa: Bochco, yes.

Steve: The motion, the, the motion was made to support the staff's ...

Steve: ... recommendation, so this would be to provide a, a c-, a coastal development permit, uh, for twenty-six fire rings, uh, in conjunction with the other special conditions that the staff has recommended. So we're in the middle of a vote ...

Steve: And, uh, we have Commissioner Bochco a yes, and please carry on.

Vanessa: Commissioner Howell?

Erik: No.

Vanessa: Howell, no. Commissioner Luevano?

Mary L.: No.

Vanessa: Luevano, no.

Vanessa: Commissioner McClure?

Wendy: Yes.

Vanessa: McClure, yes. Commissioner Mitchell?

Martha: No.

Vanessa: Commissioner Mitchell?

Steve: She said no.

Martha: Oh, no. Sorry.

Vanessa: Mitchell, no. Commissioner Shallenberger?

Mary S.: No.

Vanessa: Shallenberger, no. Commissioner Turnbull-Sanders?

Effie: Yes.

Vanessa: Turnbull-Sanders, yes. Commissioner Vargas?

Mark: Yes.

Vanessa: Vargas, yes. Chair Kinsey?

Steve: No.

Vanessa: Chair Kinsey, no. The vote is four yes, five no.

STATEMENT TO THE CITY COUNCIL  
CITY OF CARMEL- BY-THE-SEA

N THE MATTER OF PROPANE-FUELED BEACH FIRES

I applaud your plan to limit the number of wood beach fires on Carmel Beach, but permit the use of propane burning appliances. I urge you to develop basic rules to insure safe use of propane fuel on the beach. As a retired engineering and safety executive employed by major propane distributors with nationwide operations, I know that operating rules are necessary for public safety.

Six matters come to mind: (1) the maximum size and number of propane cylinders , (2) proper transport of cylinders to and from the beach, (3) proper upright and stable placement of the cylinders while in use, (4) protection from damage to propane hose connecting the cylinder to the appliance and (5) types of propane appliances allowed and (6) enforcement of the rules.

Addressing the above issues, here are some thoughts for your consideration:

1. SIZE AND NUMBER OF CYLINDERS. Limit the size (capacity) and number of DOT cylinders. There are cylinders larger than the common BBQ cylinder (20 lb. propane capacity), but I recommend that the common BBQ cylinder be the maximum size allowed. Also, one cylinder per appliance on the beach should adequate.
2. TRANSPORT OF CYLINDERS. Cylinders are to be carried upright while being transported to and from the beach. Due to the heavy weight of a full cylinder and the downward slope of the beach, it will be tempting to roll a full cylinder down the hill to a picnic site. This dangerous practice cannot be allowed.
3. PLACEMENT OF CYLINDERS. Cylinders must be placed and used in an upright position. Propane cylinders can tip over if not properly secured upright. On the sloping loose sands, the stability of propane cylinders is a concern. I was worried about tipping (and exposed hoses) during the beach demonstration. Also, establish a minimum distance that the cylinder must be separated from a propane appliance.
4. HOSE SAFETY. At a beach demonstration earlier this year, staff advocated a separation distance between the cylinder and the appliance. Separation is good practice, but the connecting hose will be exposed to possible damage from the people walking about. Users will want to lay the connecting hose on the top of the sand. But if someone trips over the hose, the hose can be damaged and/or the cylinder pulled over leading to serious consequences. Consider the requirement to bury connected hoses in a trench covered with sand.
5. PROPANE APPLIANCES. Specify what types of propane appliances will be allowed on the beach. A variety of portable fire pits were demonstrated by staff, so you must intend for these to be used. Also, small, portable propane gas grills have been allowed in the past, so I assume that they will be allowed. Will you allow large, non-portable patio BBQ grills on the beach?

Propane torches? Propane fish cookers? If not, it should be clear what is not permitted. Otherwise, you could see a variety of propane burning contrivances.

6 ENFORCEMENT. Basic rules seem necessary, but consider how will the public be educated and the rules enforced?

Robert A. Reid

[REDACTED]  
[REDACTED]  
[REDACTED]

June 18, 2016

**From:** Rob Mullane  
**To:** Ashlee Wright  
**Cc:** Leslie Fenton; Chip Rerig  
**Subject:** Fwd: June 30 Council Meeting  
**Date:** Sunday, June 19, 2016 10:48:49 AM

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**From:** kathleen bang [REDACTED]  
**Date:** June 18, 2016 at 11 :26: 19 AM PDT  
**To:** Steve Dallas <sgdallas@yahoo.com>, Carrie Theis <carrie@hofsashouse.com>, Jan and Niels Reimers <janreimers@aol.com>, Bobby Richards <bobbyrichards6@gmail.com>, Carolyn Hardy <chard.y824@gmail.com>  
**Cc:** Chip Rerig <crerig@ci.carmel.ca.us>, Rob Mullane <rmullane@ci.carmel.ca.us>, Marc Wiener <mwiener@ci.carmel.ca.us>  
**Subject: June 30 Council Meeting**

Dear Mayor Dallas, Vice Mayor Theis and Carmel City Council Members

I am writing to you about the upcoming re-hearing of the Beach Fire Management Program. I appreciate your efforts to address this issue early and to try to balance the desires of folks for recreational fires against the protection of the treasure that is our beach, the protection of the ocean and the health and safety of your citizens.

The program under discussion does much of that, especially as it protects the beach and the ocean.

I would like to propose two modifications for your consideration.

First, to return the wood fires to at least 100 feet from the banks. Carmel citizens and visitors have enjoyed cleaner air for the last 10 months since this requirement was put in place. While it does not eliminate the harmful effect of wood smoke entirely, it helps. I ask you to strongly consider putting the fires back to 100 feet or more. Propane users can control where they put their devices and stay away from the smoke.

Second, to go to propane-only on weekends and holidays. It is hard to convey the joy and amazement of folks on the beach, the path, and in surrounding homes when they were able to enjoy evenings without smoke for the first time in years last August. You may want to ask staff for the dozens of letters that flowed in, or for the photographs that were taken of the huge numbers of people on the beach those weekends.

For the last ten months, there have been three days/week that EVERYONE could go to the beach in the evening and enjoy the beach and the sunset. This program reverses that and denies access to anyone with asthma, heart disease, lung disease, sensitivity to smoke, older adults and young children every evening of the week. A propane-only rule on weekends and holidays would also serve as a pilot for

propane-only that can be concurrent with the propane and wood smoke fires on the other 4 days/week.

I believe these two changes would make this pilot a true compromise, and would consider the needs of all: those who cannot have fires in their own communities and come to Carmel for them, those who live here and want fires, as well as those who visit Carmel for clean air and those who live here and are impacted by harmful wood smoke.

Thank you for your thoughtful deliberation on this issue.

Best,  
Kathy Bang

**From:** Patrick McGibney  
**To:** Leslie.Fenton  
**Subject:** Fwd: For Council distribution  
**Date:** Friday, June 17, 2016 10:29: 13 AM

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Dear Leslie, I've been directed to you as the best means to have this message distributed to the members of the City Council. Thank you for your help. Would you please let me know when this has been done?

Sincerely  
Patrick

BEACH FIRES - There time has past.

The controversy over beach fires on Carmel Beach still rages on. The sheer number of them has reached critical mass over the last decade, somewhat reminiscent of the 4th of July of years past. 69 now, I grew up here when local families would have picnics with "campfires" on the beach for just about any reason, and July 4th always had a large turnout. Families in neighboring communities all had their own beaches to go to for celebrations. But over the years, many of those beaches were entrusted to the State, including Stewart's beach and Monastery beach, where fires and fireworks became prohibited - but not in Carmel. Naturally, Carmel beach became the place to be on the 4th. Infill from other communities happened slowly, but sometime in the late 70's/80's it got so out of hand, it became dangerous - on many different levels. Fireworks, the main reason to gather on the 4th, became prohibited here also, killing a tradition many had enjoyed for decades. Families used to go into the forests to cut down their own Christmas trees to decorate. Can you imagine what our forests would look like now if that were still an allowed tradition? The harvesting of abalones off Carmel beach was also once a tradition. But overuse can kill a good thing, and Carmel Beach, one of the only beaches on the Central Coast where fires are still allowed, has reached its saturation point. What once was clean, safe and a local tradition for the residents, has now been overused by the multitudes as the only beach left where you can enjoy a fire. But as we all understand, what works for a few, may not work for the many. Out of health and environmental concerns, the Carmel Beach fire should now be put to rest so everyone can breathe easy and enjoy our squeaky white sands once again.

Patrick McGibney  
Carmel by the Sea and other parts of the world.

**From:** Denise Otterson  
**To:** Steve.Dallas.Council; Carrie.Theis; Jan.Reimers; Bobby.Richards; Carolyn.Hardy; Rob.Mullane; Chip.Rerig; Marc J!!lieo..er; Ashlee Wright  
**Subject:** families for clean air.org, 2 articles  
**Date:** Sunday, June 19, 2016 12:54:17 PM

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Thank you for including the full document print out of these 2 documents and the website in the Beach Fires Management discussion.

SCROLL DOWN AND SEE 2 links below

DENISE OTTERSON

<http://www.familiesforcleanair.org/health/health4/>

Wood smoke vs. cigarette Smoke

People who would never dream of smoking a cigarette choose to burn wood. Yet wood smoke contains many of the same toxic and carcinogenic substances as cigarette smoke, including benzene, benzo(a)pyrene, and dibenz(a,h)anthracene.

And wood smoke produces far more particulate pollution than cigarette smoke does.

EPA researchers estimate the lifetime cancer risk from wood smoke to be 12 times greater than from a similar amount of cigarette smoke.

In a laboratory study at Louisiana state university, researchers found that hazardous free radicals in wood smoke are chemically active 40 times longer than those from cigarette smoke-so once inhaled, they will harm the body for far longer.

Other EPA estimates suggest that a single fireplace operating for an hour and burning 10 pounds of wood will generate 4,300 times more carcinogenic polyaromatic hydrocarbons than 30 cigarettes.

wood smoke vs. cigarette smoke



## Wood Smoke vs. Cigarette Smoke

Wood smoke contains about 10 times as many toxic and carcinogenic substances as cigarette smoke.

why>Your\_Neighbor's\_wood\_smoke\_is\_Killing\_You

## Why Your Neighbor's Wood Smoke is Killing You

Wood smoke from wood burning (stoves, particle pollution) is hazardous to health.

why Your Neighbor's wood smoke is Killing You



"In many locations, wood burning is the largest contributor to wintertime particulate pollution (PM2.5). An important new study from scientists at the Harvard school of Public Health demonstrates just how harmful this pollution is to human health.

What they found is alarming. In the study's sample of 2.4 million people, there were higher death rates in zip codes with higher particulate pollution levels than in those with lower levels. Even small increases in PM2.5 led to higher death rates, with each 10 µg/m<sup>3</sup> increase in PM2.5 resulting in a 7.52% increase in mortality. This increase in death rates was seen even in zip codes in which the annual exposures were below EPA standards (the current limit is 35 µg/m<sup>3</sup> PM2.5 daily)."

**From:** Denise.Otterson  
**To:** dallasforcarmel@gmail.com; CarrieTheis; Carolyn.Hardy; Jan.Reimers; Bobby.Richards; Chip.Rerig; Asb.1.ee  
..tim!h.j.; Rob.Mullane; PP.CarmelPioecone; Marc.Wiener; cityatty@ix.netcom.com  
**Subject:** from a web site PHYSICIANS FOR A HEALTHY ENVIRONMENT  
**Date:** Wednesday, June 22, 2016 1:17:45 PM

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please include in information for Beach Fires. Thank you.

[http://www.ehhi.org/woodsmoke/utah\\_17reasons\\_0115.shtml](http://www.ehhi.org/woodsmoke/utah_17reasons_0115.shtml)

## wood smoke

### Utah Physicians for a Healthy Environment give 17 reasons to ban wood burning

1. All pollution is not created equal. wood smoke is the most toxic type of pollution in most cities, more dangerous than auto pollution and most industrial pollution. Lighting a wood fire in your house is like starting up your own toxic incinerator.
2. Lifetime cancer risk is 12 times greater for wood smoke compared to an equal volume of second hand cigarette smoke.
3. Burning 10 lbs. of wood for one hour, releases as much PAHs (polycyclic aromatic hydrocarbons) as 6,000 packs of cigarettes.
4. Toxic free-radical chemicals in wood smoke are biologically active 40 times longer than the free radicals in cigarette smoke.
5. wood smoke is the third largest source of dioxins, one of the most intensely toxic compounds known to science.
6. The very small size of wood particles make them seven times more likely to be inhaled than other particulate pollution.
7. Wood smoke easily penetrates homes of neighbors creating concentrations up to 88% as high as outdoor air.
8. If you smell wood smoke, you know you are being harmed. The sweet smell comes from deadly compounds like benzene.
9. The most dangerous components of air pollution are much higher inside homes that burn wood compared to those that don't, as much as 500% higher.
10. Considering the most dangerous part of particulate pollution, wood burning produces as much overall as all our cars during the winter.
11. The inhalable particulate pollution from one woodstove is equivalent to the amount emitted from 3,000 gas furnaces producing the same amount of heat.
12. Emissions from modern combustion appliances for wood logs may increase ten-fold if they are not operated appropriately, and most of them are not.
13. wood smoke is the only pollution emitted right where people spend most of their time. It disperses poorly, is not evenly distributed and stays in the air longer because of its small size. concentrations can be 100 times higher for neighbors of wood burners than what is captured at the nearest monitoring station. Real local "pollution victims" are created even when overall

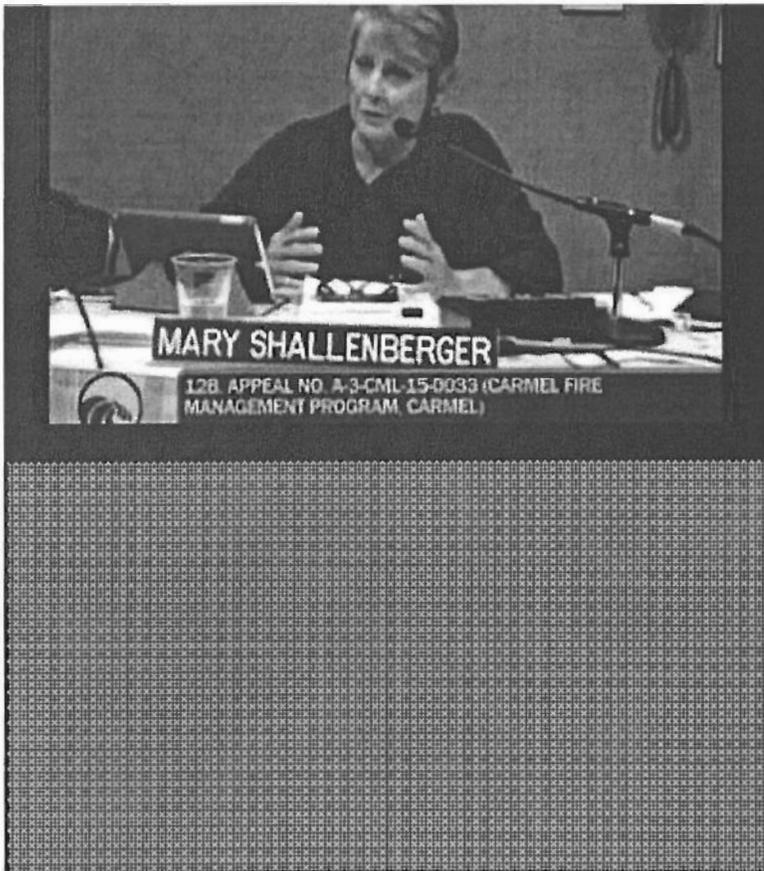
- community levels are low.
14. If your neighbor is a regular wood burner, and follows all the rules, i.e. doesn't burn during yellow or red alert days, but does during all "green" days, you can go an entire winter without having one single day of clean air. This is a civil rights issue.
  15. According to California's Bay Area Air Quality Management District, burning wood costs the rest of the community, primarily your next door neighbors, at least \$2 in extra medical expenses for every lb of wood that you burn. An average fire then costs your neighbors about \$40.
  16. Long ago most communities passed ordinances protecting people from second hand cigarette smoke. Ironically those laws protect people at places they don't necessarily have to be (restaurants, stores, buildings, etc). But in the one place they have to be, their own home, they have no protection from something even worse-wood smoke. People should have just as much protection from wood smoke as from cigarette smoke and for all the same reasons. we don't allow people to blow cigarette smoke in your face, why should we allow people to blow wood smoke into your home
  17. wood burning is not even close to carbon neutral over the short term, the next few decades, and it is that time frame that will make or break the climate crisis. Burning wood is extremely inefficient. Per unit of heat created wood produces even more CO2 than the fossil fuels do. Furthermore, the black carbon particulate matter released enhances the absorption of radiant heat in the atmosphere, making global warming worse, and prematurely melts already imperiled mountain snow pack.

From Utah Physicians for a Healthy Environment:  
<http://uphe.org/priority-issues/wood-burning/>

**From:** Rob Mullane  
**Sent:** Thursday, June 16, 2016 11:16 AM  
**To:** Ashlee Wright; Leslie Fenton  
**Subject:** FW: COMMISSIONER SHALLENBERGER on WOOD SMOKE IS A CARCINOGEN

**From:** Denise Otterson [REDACTED]  
**Sent:** Thursday, June 16, 2016 11:02 AM  
**To:** Steve Dallas Council <sgdallas@yahoo.com>; Carolyn Hardy <carolyn-hardy@shcgloba.net>; Jan Reimers <ianreimers@aol.com>; Bobby Richards <bobbyrichards6@gmail.com>; Carrie Theis <carrie@hofsashouse.com>; Chip Rerig <crerig@ci.carmel.ca.us>; Rob Mullane <RMullaoe@cicarmel.ca.us>; PD CarmelPineCone <mary@carmelpinecone.com>  
**Subject:** COMMISSIONER SHALLENBERGER on WOOD SMOKE IS A CARCINOGEN

**commissioner\_shalJenberger, "wood\_smoke\_is\_a\_carcinogen."**



**Commissioner Shallenberger, "Wood smoke is a carcinogen."**

"The science is in. The debate is over - wood smoke is a carcinogen." The California Coastal Commission...

Mr. Mayor, Council Members and City Administrator:

Unfortunately, the format for public comment at the Council meetings does not provide the opportunity to address the view points expressed in the discussion among the Council Members. There were several points revealed in the discussion on which I wish to comment. Please bear with me.

1) As near as I can tell, the original idea of confining wood fires to South of 10th Ave. was based on the following loosely held beliefs:

- Winter storms do not cleanse the beach North of 10th.
- Police on patrol cannot see the beach North of 10th from the path.
- It would be an extra burden for residents near the Del Mar parking lot.
- At the June 6th hearing, other justifications were added to the list: Wood fires North of 10th should not be allowed because it "Keeps the area free of smoke and odors from cooking." "It keeps the area free of trash from fire burning activities." "It provides clean air north of there." This is a jaw-dropping display of insensitivity to what the area South of 10th deals with now! How can this be okay for those South of 10th and not for those North of 10th!?

Addressing each of these "justifications" for keeping wood fires South of 10th Ave.:

- With the proposed use of containers for wood burning fires, it no longer matters if the winter storms "clean" the beach.
- With the proposed use of an UTV to patrol the beach, full view of the entire beach from the path does not matter. The patrol should be walking the beach as well.
- Finally, if it is inconsiderate and undesirable for those North of 10th, then it is equally undesirable for those South of 10th!

I strongly urge that the entire beach, or at least from Martin Way to Del Mar parking, be used for wood fires. That would spread out the now concentrated impact of wood fires as well as increase the access points to more visitors. Wouldn't it be nice for someone to park at Del Mar and walk to the beach with their propane device without having to navigate stairs? There is absolutely no reason to confine wood fires to any specific section of the beach. The South of 10th Ave. residents are very tired of living in the City-created "smoke ghetto", and now the City is planning to make it a "visual ghetto" as well with all wood fire containers and all propane devices confined to South of 10th. Since City Staff and the Forest and Beach Commission have some leeway on the pilot implementation, I ask that this change be made for a more fair accommodation of the recreational activities.

2) I heard no comment on how wood fires in the containers would be extinguished by 10 PM. If the fires are just left to "die out", many residents will be unable to open windows until the early morning hours. That is totally unacceptable.

3) In the pilot program, I urge the City to start with a maximum of five containers and place them 100 feet from the bluffs. Five will be enough to test the concept of use as a "community fire", and 100 feet will give the city an opportunity to see if that distance keeps the smoke from impacting the residents.

4) It is truly astounding that the City wants to place the same restrictions on user provided propane devices as for wood fires. Wouldn't it solve a lot of issues if MORE people used propane devices? Wouldn't it be remarkable if people brought their fires with them and took them home after enjoying them on the beach? Wouldn't the City like to have fewer complaints about smoke? I encourage the City to develop a broad publicity campaign to encourage the use of propane devices. If the City wants to encourage fewer wood fires, give propane devices a much broader freedom of use, i.e. anytime, anywhere 25 feet or more from the bluffs on Carmel Beach! Regarding false reports of a fire on the beach; couldn't the dispatcher at the police station simply ask the caller if the fire is producing any smoke?

5) There was a suggestion that the City supply the wood in order to control what was burned. While it might be desirable to control the type and quality of wood to be burned in the containers, it should be accomplished through the extensive educational and informational component of the pilot. If that is not sufficient, the enforcement component of the pilot should be utilized. To have the City or a vendor provide the wood will only encourage more wood fires. What's next? Shall we set the wood on fire every night in each container and see if anyone shows up?

Finally, as a general comment, I was disappointed that the previous City Council's and City Staff's recommendation of a one year propane only pilot was so casually dismissed. It's an interesting interpretation of the CCC's position that their enthusiasm for a propane pilot program was based entirely on the City providing the propane devices. Having personally attended the CCC meeting, I saw no evidence that was the basis of their recommendation and enthusiasm for a propane only pilot program. They, in fact, were hoping that Carmel would successfully develop an alternate option to wood fires while still providing great recreational access to all. A program that could be adopted by the many other beach communities struggling with this very same issue. Sadly, Carmel is going in the opposite direction and is missing this opportunity.

Sincerely yours,

Wayne Moon



**From:** Tricia.Dally  
**To:** [dallastorcarmel@gmail.com](mailto:dallastorcarmel@gmail.com); [CarrieTheis.Council](mailto:CarrieTheis.Council); [janetr2016@gmail.com](mailto:janetr2016@gmail.com); [letsgocarmel@amaH.com](mailto:letsgocarmel@amaH.com); CafQ001..tlanri  
**Cc:** Ashlee.Wright; [Michael@Coastal.Watson](mailto:Michael@Coastal.Watson)  
**Subject:** Letter and Supporting Documentation for the public record for the Beach Fire Special Meeting to be held on June 30, 9am @ City Hall  
**Date:** Sunday, June 26, 2016 11:18:14 AM  
**Attachments:** [Dr Koteen Air QuaHty Analysis of Carmel Beach Data001.odf](#)  
[Richard Stedman Letter to ccc001.pdf](#)  
[EXECUTIVE SUMMARY FINAL 17 pg PDF.pdf](#)  
[July 4 Chart001.pdf](#)

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Dear Mayor Dallas and City Council members,

Unfortunately, I will not be able to attend the re-do of the Beach Fire Special meeting on June 30, as I will be out of town working, but I would like to submit the following letter and supporting documentation for the public record.

I would also like to commend all of you for the Beach Fire proposal plan that you approved during the June 6 meeting - I thought it was a well-thought out plan where all parties shared a reasonable and fair compromise, and I would like to support it wholeheartedly.

Here are my comments regarding the Carmel Beach Fire issue:

Over 500 stakeholders signed a petition in support of a limited number of wood beach fires, in temporary or portable pits, continuing on Carmel Beach. This was over twice as many who opposed wood fires. The scientific experts who have assessed the data from the Carmel Beach monitor agree that reducing the number of wood fires should solve the problems associated with smoke. Additionally, increasing setbacks, as proposed by the council in the June 6 meeting, will also help avoid smoke from reaching homes and the pathway along Scenic Road.

Many of our local families who are in support of a limited number of wood fires, are pleased to see that an effort is being made to include a wood-fire option in the new proposal to the Coastal Commission, and we hope that a solution can soon be reached between the City and CCC staff recommendations.

We also hope that the community can come together on this issue, with compromises made on both sides, so that we can move forward in a positive manner.

Those of us in support of wood fires, would like to request that wood fires be allowed to start again on weekends and holidays this summer, once a Coastal Development Permit is approved by the California Coastal Commission, as it is difficult with work schedules and children's activity/school schedules to make it to the beach on Monday through Thursday evenings. The rationale for this is that wood fires will be in

temporary or portable pits going forward, thereby no longer contributing to blackening of the sand, and the reduction in the number of fires allowed should reduce the amount of smoke so as not to create a nuisance to Scenic residents. Additionally, Mayor Dallas' suggestion to use a beach rake/tractor to thoroughly clean the beach should hopefully remove years' worth of charcoal and litter, thereby returning Carmel Beach to its more natural state.

Personally, as requested in the June 6 meeting, I would also like to propose that consideration be made that the wood fire pits be considered communal or shared, as opposed to first-come, first-served, as this would allow more people to enjoy wood fires, while still reducing the actual number of fires, and I think that the council's proposal at the June 6 meeting to have a maximum of 12 wood fire pits is a reasonable compromise, since the day that caused concern, July 4<sup>th</sup>, had 135 fires burning simultaneously on Carmel Beach.

Additionally, I feel that it is very important to have proper monitoring systems in place to assess any health and safety risks, which can allow for adjustments to the program as necessary. Although, based on my research on the raw Carmel Beach data (see attachment to this email), I am confident that air quality from wood-burning beach fires will be a non-issue going forward if the maximum number of wood fires allowed would be 12 (a reduction to 26 fires as originally approved by the council prior to the ban, should have resulted in "good" air quality as well, which, according to the EPA presents little to no threat, so a maximum of 12 wood fires should provide a healthy margin of safety).

I also wanted to reiterate some of the salient points regarding the data collected by the Carmel Beach Monitor and the experts' conclusions from that data for the record, since a lot of misleading information has been given both to the public and Coastal Commissioners (such as claims that the smoke on July 4th reached levels that would have caused an evacuation in a wildfire - this is absolutely false; please see attached July 4th chart).

Additionally, some opponents of wood fires are relying on generalized studies of wood smoke, while the Carmel Beach data offers very specific information as to the air quality and safety based on EPA Standards, which are established to protect the public health and are based on thousands of epidemiological research studies, reviewed every 5 years (most recently by the Obama Administration in 2012), that assess health risk based on concentration and time exposure to particulate pollution (eg smoke) - I apologize in advance for those of you who have heard these arguments already:

- It is important to note that 100% of the Carmel Beach monitor data collected prior to the weekend and holiday ban met both the EPA National Standards,

the California State Air Quality Standards, along with our local Monterey Air Quality Board standards, established to protect the public health and the environment. That means ZERO days of unhealthy air for anyone, including those in sensitive populations. In fact, the only exceedence of these official standards was from the Tassajara Wildfire in Carmel Valley, a day when beach fires were banned, according to California Coastal Commission expert, Dr. Laurie Koteen.

- That said, the number of fires on Carmel Beach has grown in recent years, and there have been legitimate concerns about smoke as a nuisance to some residents near Carmel Beach, and potentially a concern to the health of some sensitive individuals when the number of bonfires are unregulated (such as the 135 fires on the evening of July 4, 2015 - if the smoke levels on that evening had continued unabated, they could have exceeded the air quality standards, but fortunately, they did not and would not have even triggered a "Spare the Air Day" in the Bay Area, but there were four hours that raised concern on that evening).
- Both experts in this case, Dr. Laurie Koteen and Mr. Richard Stedman, have stated that reducing the number of wood fires should solve the problem.
- In fact, Dr. Koteen, the research scientist and expert for the California Coastal Commission who analyzed the raw Carmel Beach monitor data, noted in her memorandum that 98% of the hourly data collected by the beach monitor measured in the "Good" air quality category according to EPA guidelines - this is excellent. According to the EPA, "Good" air quality represents little to no threat to anyone, even those in sensitive populations (including the elderly, children, and those with pre-existing medical conditions, such as heart and lung disease).
- Dr. Koteen concluded in her report that "... limiting the number of beach fires and better beach fire management... would be a prudent and cautious approach to help avoid exceeding 'Good' air quality guidelines inland of that area, but that a ban on all such fires is not supported by the data."
- Additionally, in a letter to the Coastal Commission dated August 18, 2015, Richard Stedman of our local Air Quality Board also concluded that "Limiting the number of fires (sic) rings on the beach is a common sense approach that should be effective in addressing this problem."

I have attached both Dr. Koteen's Analysis and Mr. Stedman's letter for your reference, and highlighted the relevant sections. If you are interested, you can also look at my analysis of the Carmel Beach Data and the July 4th chart attached.

I think that it is also important to note that by limiting fires to the south of 10th Avenue location, two-thirds of Carmel Beach will not have fires, providing access to those with pre-existing conditions (especially in light of the great reduction in the number of wood fires allowed, which should provide for 'good' air quality at Carmel Beach). The proposal in your June 6 plan to limit the number of hours that wood-beach fires are allowed, would

also guarantee more unfettered access to those with pre-existing conditions, while allowing reasonable access to those who want to enjoy the tradition of a wood-burning beach fire to do so responsibly.

We are hopeful that a reasonable agreement can be reached soon, so that locals and visitors alike can enjoy beach fires safely on weekends and holidays, while protecting local residents along Scenic from residual smoke.

Should you have any questions regarding the data, please feel free to contact me. My husband and I have been in partnership with the National Park Service and the National Forest Service for over 16 years, and have gone through several evacuations due to forest fires, including last year's Rough Fire - the largest California forest fire in 2015, and have been through several controlled burns conducted by the Park Service over the years...most recently two weeks ago when an E-bam monitor was installed on-site at our lodge. It is through these experiences that I have become educated on air quality standards and wood-smoke fires, in an attempt to keep our guests and staff safe during the event of a forest fire or controlled burn.

Thank you for your kind attention to this matter and your spirit of compromise for all.

Respectfully,

Tricia Dally

Avenue air quality monitoring station. However, those data were generally of poor quality due to difficulties in finding a suitable setup location for the meteorological sensors. The quality of wind data will suffer when it is placed behind a physical barrier, as was the case at the 13<sup>th</sup> Avenue monitoring station. PM 2.5 data may suffer as well, but in this case it probably reflects the local air quality fairly well. Although the sensor is quite near to the beach, it is at a sufficient distance that the air should be well-mixed by the time it reaches the sensor, although this is an assumption<sup>17</sup>. The MBUAPCD did provide me with reliable meteorological data from a Pacific Grove location as provided by the California Irrigation Management Information System network (CIMIS)<sup>18</sup>. CIMIS is a network of weather stations arrayed across California where numerous meteorological variables are recorded on an hourly basis. The location of the Pacific Grove sensor has the benefit of being located along the coast, but it is in a somewhat different orientation than Cannel Beach. In addition, the Pacific Grove sensor is located substantially to the north of Carmel Beach, and in an area that is more directly exposed to the predominant northwest winds, whereas Carmel Beach is located within Carmel Bay where the headlands of the Bay may change wind dynamics as compared to the Pacific Grove sensor, **Figure 2**. Therefore, I viewed these wind data as representative overall, but by no means identical to the meteorological conditions that occur at Carmel Beach.

#### **Analysis of Air Quality Standards and Guidelines in relation to PM 2.5 readings in the Carmel Beach Fire Area Airshed**

To answer the question of whether federal air quality standards were exceeded, or whether state public health guidelines showed problematic air quality inland of the beach fire area during the study period, I graphed the one-hour and the twenty-four hour average data from the 13<sup>th</sup> Avenue monitoring station to correspond with the guidelines listed in **Table 2**. These appear in **Figures 3** and **4** respectively. Although the one-hour data are important and informative, the twenty-four hour data are the only data for which enforceable Clean Air Act standards exist. Therefore, I relied solely on the twenty-four hour data to determine if an air quality exceedance occurred. According to the 24-hour data, daily standards for PM 2.5 were exceeded one time, on September 20, 2015, **Figure 4**, (but see footnote 8 which establishes that this is a conservative interpretation of the Clean Air Act Standard, and that three years are required to actually establish if a violation has occurred). I do not attribute this exceedance to beach fire smoke, however, because it occurred on a Sunday when the City was enforcing its beach fire moratorium.

Turning to the hourly data, **Figure 3**, we see that readings at the 13<sup>th</sup> Avenue monitoring station were predominantly in the "Good" air quality category almost all of the time<sup>19</sup>. We also see several data points that exceeded recommended guidelines for one to three hour concentrations. By "exceeding recommended guidelines," I am distinguishing between exceedances of state and federal *standards*, which represents non-compliance with the Clean Air Act, and exceedance of the *guidelines* detailed in **Table 2** above, which puts air quality conditions outside of a set of recommendations for public health officials to guide their response under different particulate matter concentrations. Under these EPA guidelines, PM

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<sup>17</sup> *Ibid* (note that the sensor cannot distinguish between different potential sources).

<sup>18</sup> California Irrigation Management Information System (CIMIS), <http://www.ciinis.water.ca.gov/>

<sup>19</sup> See Table 2 above. Per EPA guidelines, the "Good" category means "Air quality is considered satisfactory, and air pollution poses little or no risk."

2.5 concentrations reached levels "Unhealthy for Sensitive Groups" during six individual hours in the months of May through early July. In addition, on July 4<sup>th</sup>, a day in which recreationists lit 75 and 135 fires (by 7 p.m. and 8:30 p.m. respectively)<sup>20</sup>, PM 2.5 concentrations rose into the "Unhealthy" category for two hours as measured at the 13<sup>th</sup> Avenue monitoring station. Across the entire five-month hourly dataset, air quality conditions for PM 2.5 fell into the "Good" category 98.0% of the time, into the "Moderate" category 1.8% of the time, into the "Unhealthy for Sensitive Individuals" category 0.17% of the time and into the "Unhealthy" category 0.055% of the time<sup>21</sup>. In short, the data shows that air quality at the 13<sup>th</sup> Avenue monitoring station was almost always in the "Good" air quality category, when the finer-grained hourly average air quality is considered, for which the EPA does not recommend that any actions are necessary to abate air quality concerns (see Table 2). Air quality only entered into the "Unhealthy" categories eight times (about 0.23% of the data points), one time of which exceeded Clean Air Act standards during a time when there were no beach fires. In **Figure 4**, we see the single aforementioned 24-hour data point where PM 2.5 exceeded the recommended guidelines for 24-hour concentrations (during a time when the City enforced a prohibition on all beach fires).

A comparison of **Figures 3** and **4** is also informative. The finer-grained hourly data, **Figure 3**, indicates that eight hours of high PM 2.5 concentrations fell in the "Unhealthy for Sensitive Individuals" and "Unhealthy" categories on weekends before the moratorium was implemented. However, the coarser-grained, 24-hour averaged data, graphed in **Figure 4**, reveals that large fluctuations in PM 2.5 readings occurred both pre- and post-moratorium, with PM 2.5 concentrations indicating "Moderate" air quality conditions evident throughout the dataset. The period from approximately August 14<sup>th</sup>, 2015 through October 15<sup>th</sup>, 2015, for example, is a period of large fluctuations in PM 2.5 concentrations, with no apparent pattern of high or low values associated with weekends or weekdays. These observations emphasize that a multi-source analysis combined with meteorological data would be required to understand, and potentially improve, our understanding of particulate matter concentrations in this region. Further, a focus solely on beach fires at Carmel Beach as a means of improving PM 2.5 concentrations in Carmel-by-the-Sea, will be a partial solution at best, given that there are many other factors that can contribute to PM 2.5 concentrations, including wood fires in residential fireplaces, vehicle exhaust, backyard barbecues, etc.

#### **Analysis of the Correlation between Beach Fire Occurrence and PM 2.5 Concentration**

To determine if the source of the relatively higher PM 2.5 concentrations at the 13<sup>th</sup> Avenue monitoring station can be attributed to fires within the beach fire area on Carmel Beach (Question 2, above), I followed two approaches. For the first approach, I graphed the 24-hour data for the time period preceding the moratorium on beach fires (*i.e.*, for the time period from May 21, 2015 through August 2, 2015), **Figure 5**. I then identified all the weekends in this time period (Friday through Sunday). If PM 2.5 concentrations exceeded 12  $\mu\text{g}/\text{m}^3$  during any portion of those weekends (*i.e.*, if concentrations exceeded state guidelines for "Good" PM 2.5 conditions), I drew a shaded box around those weekends to separate

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<sup>20</sup> Data provided by the City of Carmel-by-the-Sea.

<sup>21</sup> These percentages sum to 100.025% due to a slight rounding error.

# ***CARMEL BEACH AIR QUALITY DATA ANALYSIS***

***ANALYSIS PERIOD: 5/21/2015 - 8/7/2015***

*This briefing has been prepared by a group of Carmel area residents who want to ensure the city uses a fact-based approach to finding a reasonable compromise on Carmel beach bonfires, to the benefit of all.*

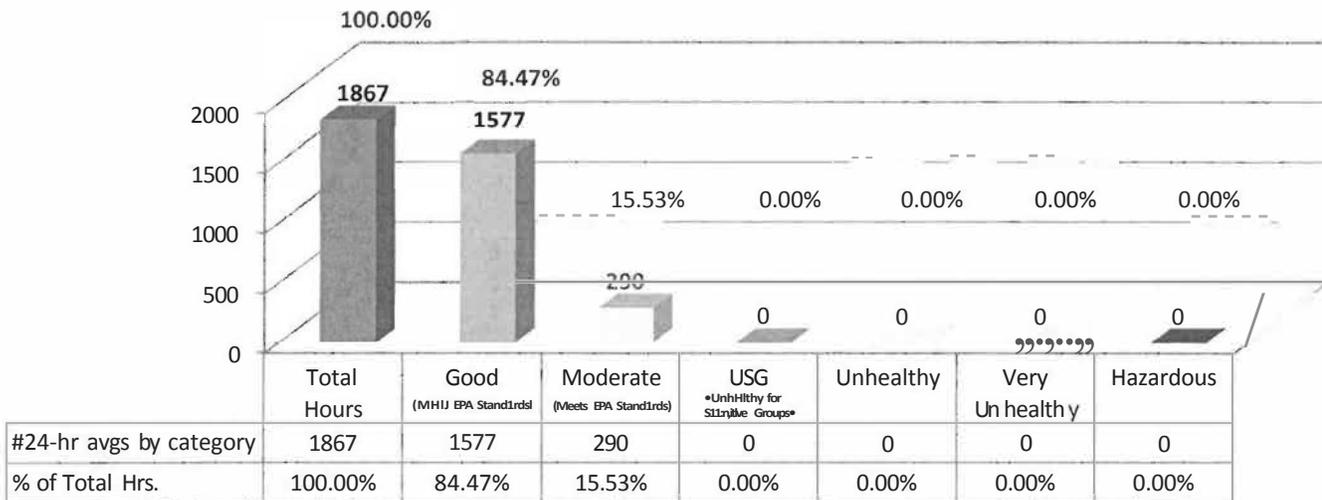
*Contact: Tricia Dally, (831) 659-4345; John Dally, (831) 659-4118*

## **SUMMARY**

The Data from the Carmel Beach Monitor prove that 100% of the air quality readings at Carmel Beach met the National Air Quality Standards set by the EPA to protect public health

- The EPA has set standards for small particulate matter (PM2.5) emissions - like the smoke from wood fires - based on a 24-hour average. These norms have been made increasingly strict over the years. The Monterey Bay Unified Air Pollution Control District (MBUAPC) started monitoring PM emissions near Carmel beach on May 21, 2015; up until the weekend and holiday bonfire ban on August 7, 2015, 100% of the readings were acceptable according to the EPA standards, and in compliance with the Clean Air Act.
- Coastal Commission expert Dr. Laurie Koteen, came to this same conclusion after her analysis of the data collected by the Carmel Beach Monitor, and provided a written report outlining her findings.
- Carmel Beach met this standard despite the fact that there were no limitations on the number of fires during the period analyzed, beach rules were not being sufficiently communicated to the beach-going public, especially at beach entry-points, and the city did not dedicate adequate personnel to enforce the rules.
- The EPA has provided additional guidance that refers to 1-hour emission readings, although they are not legal standards. If a reading is very high and an event is expected to go on for some time - like a forest fire - these readings can be an early warning. Out of 1,871 hours of data, Carmel beach PM levels only went above the recommended 1-hour level 8 times. Half were on a single day, the 4<sup>th</sup> of July, when there were 135 bonfires. Nevertheless, because these events passed quickly, the legal standard set by EPA on a 24-hour basis was not exceeded. Alarming statements about public health made by some local officials are not supported by the evidence.
- A very reasonable limitation in the number of wood-burning bonfires, such as the proposed 26-ring trial, would eliminate the possibility even of peak moments like the four hours that occurred on July 4<sup>th</sup>. This approach would balance the understandable concern local residents have about the nuisance of smoke, and the chance to continue the tradition of wood-burning beach bonfires enjoyed by generations of local residents and visitors alike.

**Total # of Carmel Beach Monitor 24-hr. Average Readings  
by AQI Category  
Data Analysis Period: 5/21/15 - 8/7/2015**



## BACKGROUND

Local residents have expressed concern about excessive bonfires, with smoke being one issue

The number of beach bonfires on Carmel-by-the-Sea's Public Beach has grown substantially over the past few years, especially during the summer tourist season, which has led to increased blackening of the sand from the charcoal remains left from the fires, added litter from beachgoers, and excessive smoke wafting into residences on Scenic Road during peak beach bonfire evenings.

Many local Scenic Road area residents are concerned that the bonfire smoke presents a significant health risk to themselves and visitors alike. Given that many of Carmel's residents are senior citizens, the elderly, individuals with pre-existing health conditions, and visitors with children who play on the beach, many of them qualify as populations sensitive to smoke pollution.

The 26-ring bonfire pit plan developed by the City would have solved nuisance issues, but was pre-empted

To address these concerns, the City of Carmel-by-the-Sea developed a plan to conduct a trial of 26-rings for wood-burning beach bonfires, which would serve to reduce the number of bonfires, and thus reduce the negative impacts from the fires. In addition to reducing the number of fires at any given time, locations for the bonfire pits could be selected where the fires would do the least harm, in terms of generating excessive smoke for Scenic Road residents, and preventing charcoal detritus from staining sand throughout the beach by limiting the charcoal to the installed pits. The reduction in the number of fires would also most likely reduce the litter associated with bonfires as well. This seemed like a

reasonable compromise, given the negative impacts to the residents along Scenic due to smoke impacts from the bonfires on busy nights, and the degradation of the scenic beauty of the beach due to litter and charcoal discoloration of the white sands.

While waiting for the Coastal Commission to approve this plan, the 2015 Summer Season was upon the city, and a few of the local residents wanted something done to limit the bonfires. In addition to the city, Monterey Bay Unified Air Pollution Control District (MBUAPCD) also started to receive email complaints from some residents. These complaints triggered the City of Carmel-by-the-Sea to request that an air quality monitor be installed to measure the smoke pollution near Scenic Drive, to see if it was potentially impacting public health.

**The air quality monitor near Scenic Drive & 13<sup>th</sup> Avenue is placed in a special location**

On May 21<sup>st</sup> 2015, the city of Carmel-by-the-Sea had an Air Quality (E-BAM mass) monitor installed, by the Monterey Bay Unified Air Pollution Control District (MBUAPCD), at a residence located near the intersection of Scenic Road and 13<sup>th</sup> Avenue. The monitor was put in place to measure PM2.5 smoke pollution from Carmel Beach bonfires in order to assess if emissions were harmful to public health along Scenic Drive, and the surrounding area. According to Richard Stedman of the MBUAPCD, the location of the monitor was carefully chosen "to be representative of air quality conditions along the beach." (see Figure 1 - *Coastal Commission Staff Report by Mike Watson, F128, Appeal# A-3-CML-15-0033, Report date: 11/25/2015*: Exhibit 9 from Original Staff Report; Letter from Richard Stedman of MBUAPCD).

The monitor was installed at a residence that was located just above the 13<sup>th</sup> Avenue Cove area of Carmel Beach. The cove serves as a very popular location for bonfires, as it is enclosed by bluffs on three sides, thus offering beachgoers protection from wind. Most of the fires that occurred regularly in the cove should never have been allowed according to beach rules, as all bonfires on Carmel Beach were supposed to be more than 25 feet from any bluffs (now 100 feet according to new rules set by the City Council). However, due to a lack of communication of the rules over the years to the beach-going public, especially at beach entry points, combined with a lack of enforcement of said rules by the City of Carmel-by-the-Sea, beachgoers almost always choose this cove due to its prime and protected location.

The 13<sup>th</sup> Ave. Cove serves to trap and pool smoke. The cove's offset angle from the ocean makes it difficult for ocean breezes to dissipate the smoke generated from bonfires within the cove itself (bonfires that shouldn't have been there even under the old rules). Thus, the smoke has nowhere to go but up, leaving homeowners in this immediate area bearing the brunt of smoke overflow from the bonfires. Smoke from bonfires built on the rest of Carmel Beach (away from the bluffs) and nearer to the ocean, would most likely dissipate quickly due to more rapid mixing with a larger mass of air and prevalent ocean winds.

Due to the unique configuration of the 13<sup>th</sup> Ave Cove based on its location, geography, and terrain, especially relative to the more open nature of the rest of Carmel Beach, placing the monitor in a home just above this cove makes it the perfect location to extract the highest PM2.5 pollution levels from Carmel Beach bonfires. Despite this, the levels still meet EPA standards.

**The air quality monitor measures PM2.5 from all sources, not just from bonfires.**

Since residents were not prohibited from using their wood-burning fireplaces during the data collection period, it is impossible to establish which emissions data were solely attributed to beach bonfires. Many summer mornings and evenings are chilly at Carmel Beach, so it is reasonable to assume that wood-burning fireplaces did contribute to the total PM2.5 emissions measured by the monitor. In fact, during the measurement period, the average PM2.5 reading when bonfires are prohibited, between 10pm and

7am, was 4.3 micrograms, close to half the average for the rest of the day, 10.8 micrograms. *Source: Analysis of Carmel Beach Monitor Data from 5/21/2015 - 8/7/2015; raw data provided by Monterey Bay Unified Air Pollution Control District on 1/8/2016.*

Because the Carmel beach monitor is undifferentiated as to sources, we will never be able to determine how much woodstoves, barbecues, vehicles and other sources contributed to the small number of short-term data spikes that rose above the moderate range. The monitor is a measurement of all PM2.5 pollution sources combined. *Source: Letter from Jack Galante (former Senior Environmental Planner who worked on the Bay Area Air Quality Management Plan) to Carmel City Council Members, dated & submitted to the council on December 1, 2015. (see Figure 2); Coastal Commission Staff Report by Mike Watson, F128, Appeal# A-3-CML-15-0033, Staff Report Addendum For F12b, pgs. 4-5. (see Figure 1)*

### **The City calls for an emergency weekend & holiday fire ban. employing unprecedented resources**

After continued complaints to the city and MBUAPCD regarding smoke impacts to their homes, from a very small, organized, and vocal group, the City Council decided to review the data generated by the Carmel Beach Monitor.

An article from the local Carmel Pine Cone newspaper, by reporter Mary Schley, wrote of the meeting called to pass the emergency ordinance:

"Citing health concerns due to smoke, as well as environmental worries about the blackening of the famous white sands, the council decided to immediately impose the ban until it can get a plan in place to limit the fires and get them up off the sand. A proposed pilot plan that would accomplish those goals was approved by the council in May and will be considered by the California Coastal Commission late this year... The three-hour meeting... culminated in a unanimous vote to pass the emergency ordinance, which states that smoke levels during busy nights at the beach 'at times exceed air quality standards and create an immediate potential health hazard.' Therefore, the council decided, the ban was justified to 'protect the public safety, health and welfare.'" *Source: Schley, Mary, "Weekend fire ban enforced immediately," The Carmel Pine Cone, Volume 101, No. 33, August 14, 2015, page 1A & 18A (see Figure 3)*

In the same article, on page 1A, Schley goes on to describe the enforcement of the ban by the city, stating:

"The day after the ban was enacted Aug. 13, police and security guards were busy making sure everyone followed it - and that on a weekend when many beach parties were probably planned... 'On Friday, we assigned a patrol officer to the ATV on the beach, and we had six security guards from 6 to 11 p.m., and then two guards from 11 p.m. to 7 a.m.,' Police Chief Mike Calhoun said this week. 'The people on Scenic Road were very, very appreciative of it, and the people on the beach were very accommodating. They complied with anything we asked them to do'... The city council will also have to allocate more money for the additional law-enforcement presence at the beach. While the budget authorized spending \$40,000 on private security, or about \$769 per week, the bulked-up enforcement will significantly exceed that. Provided by Uretsky Security (owned by former Carmel Police Lt. Bill Uretsky) and First Alarm, the additional personnel are costing taxpayers an average of \$20 per hour per guard, according to (Police Chief) Calhoun, for a total cost of about \$1,200 per week. That spending comes in addition to the police officer assigned to beach duty, and the police department is in the process of hiring for that particular position." *Source: Schley, Mary,*

*"Weekend fire ban enforced immediately," The Carmel Pine Cone, Volume 101, No. 33, August 14, 2015, page 1A & 18A (see Figure 3)*

Hence, whereas the city lacked almost any communication of beach rules or enforcement prior to the ban, supposedly on financial grounds, they made sure they were communicating with the public regarding the beach bonfire ban once they enacted it, and then proceeded to enforce it with substantial resources and extraordinary measures, including six security guards during the hours 6 pm to 11 pm, and 2 security guards from 11 pm to 7 am during Weekends and Holidays, when the ban was in place. Additionally, 2 security guards were also assigned on Monday through Thursday nights, from 5:30 pm to 12:30 pm, when bonfires were allowed as long as they were located 100 feet away from the bluffs, and during approved times.

One wonders if all of this could have been avoided if the City had allocated a fraction of these resources consistently towards public awareness of the rules and enforcement in the years leading up to this "emergency," and simply moved forward with the 26-ring beach-bonfire trial as planned, upon approval by the Coastal Commission.

## Data Analysis Findings

**100% of the 24-Hr. running Averages of the PM2.5 data gathered by the Carmel Beach Monitor before the Weekend and Holiday Ban, met the standard set by the EPA to protect public health, according to the Coastal Commission expert who analyzed the data provided by MBUAPCD.**

According to the Coastal Commission expert, Dr. Laurie Koteen, the 24-hour data collected by the Carmel Beach Monitor did not exceed the National Air Quality Standard to protect the public health, as measured during the summer months of May, June, July, and early August, 2015, before the weekend and holiday ban was enacted by Carmel-by-the-Sea.

In fact, the only time that Dr. Koteen found an enforceable exceedance by the state and federal Environmental Protection Agencies (EPA), as measured by the Carmel Beach Monitor, was on only one occasion, on Sunday, September 20, 2015, a day when bonfires were banned on Carmel Beach. Dr. Koteen attributed this exceedance as likely being due to the two large wildfires burning in Monterey County at the time, the Tassajara Fire in Carmel Valley and the Laureles Grade Fire on Hwy. 68. *Source: Coastal Commission Staff Report by Mike Watson, F12B, Appeal It A-3-CML-15-0033, Report date: 11/25/2015; Hearing date: 12/11/2015, Project Description: Implement the City's (Carmel-by-the-Sea's) Beach Fire Management Pilot Program...*, " pages 20-22, and Staff Report Addendum For F12b, p. 5. (See Figure 2).

While Dr. Koteen analyzed the Carmel Beach Monitor data beyond the 5/21/2015 - 8/7/2015 time period that was the focus of our data analysis (which we chose primarily to exclude PM2.5 contributions from the Tassajara & Laureles Grade wildfires in September, and the PM2.5 emissions from Car Week in August, which all occurred after the holiday and weekend ban were in place), our findings replicate hers and conclude that air quality at Carmel Beach met the EPA Standards to protect public health on 100% of the days during the summer bonfire season prior to the weekend and holiday ban.

That standard was met despite the few 1-hr. spikes in the data, 50% of which occurred on July 4<sup>th</sup>, 2015, when the City of Carmel-by-the-Sea reported that "there were upwards of 135 beach fires burning on Carmel Beach on July 4, 2015 at 8:30 p.m.," according to the Coastal Commission Staff report. *Source:*

*Coastal Commission Staff Report by Mike Watson, F12B, Appeal# A-3-CML-15-0033, Report date: 11/25/2015; Hearing date: 12/11/2015, Project Description: Implement the City's {Carmel-by-the-Sea's} Beach Fire Management Pilot Program..., " see footnote #32, on page 21. (See Figure 1).*

Since the proposed 26-ring Wood-burning Beach Fire Management Pilot Program calls for no more than 26-fire rings (109 fewer fires than were on Carmel Beach on July 4, 2015), emissions from beach fires going forward should be cut by an estimated 80% from the peak experienced on July 4, 2015, which would then comfortably fall into the "good" air quality category for all exposure times (1-hr., 8-hr. and 24-hr. averages). *Source: Analysis of the Carmel Beach Monitor Data (from 5/21/2015 - 8/7/2015); Data provided by MBUAPCD (Monterey Bay Unified Air Pollution Control District on January 9, 2016.*

It is very important to remember that the EPA standards are derived solely based on 24-hr. averages, and are backed by epidemiological studies to assess public health risks associated with PM2.5 (smoke pollution). Any shorter-term measurements provided by the EPA are specifically to assist public health officials in extraordinary circumstances, such as a wildfire. "PM (pollution) levels for shorter averaging times ... are not 'official' AQI (Air Quality Index) values," because "there are no directly relevant epidemiological or controlled human exposure studies that offer guidance in the selection of particulate matter levels with averaging times less than 24 hours." In other words, the EPA 24-hour standards were derived from studies tied directly to the incidence of disease based on smoke pollution exposure times and levels for a 24-hour period. *Source: U.S. Environmental Protection Agency, 2012. Wildfire Smoke: A Guide for Public Health Officials. Revised July 2008 (With 2012 AQI Values), pgs. 26-27.*

Additionally, the EPA notes that even in a wildfire "the long-term risks from short-term smoke exposures are quite low. Short-term elevated exposures to wildfire carcinogens are also small relative to total lifetime exposures to carcinogens in diesel exhaust and other combustion source." *Source: U.S. Environmental Protection Agency, 2012. Wildfire Smoke: A Guide for Public Health Officials. Revised July 2008 (With 2012 AQI Values), p. 8*

**The Concerns regarding Wood-burning Beach Bonfires can be completely mitigated by reducing the number of fires at any one time, using temporary or portable wood fire rings, and educating the public on beach bonfire rules and providing sufficient resources to enforce them. The end result will be to improve air quality for everyone, while still retaining the 100-year old tradition of wood-burning beach bonfires, and maintaining public access, as required by the Local Coastal Plan.**

Local Scenic Road residents have certainly suffered from a smoke nuisance in recent years, and have a legitimate reason for wanting the bonfires gone. However, with a few simple changes, we should be able to continue the 100-year old tradition of wood-burning beach bonfires, while meeting the needs of Scenic Road residents to enjoy their homes without intrusion from smoke, and address pollution concerns along Carmel Beach from charcoal and litter.

Since the proposed 26-ring Wood-burning Beach Fire Management Pilot Program calls for no more than 26-fire rings (109 fewer fires than were on Carmel Beach on July 4, 2015), emissions from beach fires going forward should be cut by an estimated 80% from the peak experienced on July 4, 2015, which would then comfortably fall into the "good" air quality category for all exposure times (1-hr. 8-hr. and 24-hr. averages). *Source: Analysis of the Carmel Beach Monitor Data (from 5/21/2015 - 8/7/2015); Data provided by MBUAPCD (Monterey Bay Unified Air Pollution Control District on January 9, 2016.*

## A compromise *can* be reached

We all share in wanting a cleaner Carmel Beach, so bonfire pits, temporary or portable, makes sense in reducing the charcoal detritus in the white sands of our beach. However, the ban on wood bonfires during weekends and holidays has really hurt public access for many local families and visitors alike, who are more likely to have time to visit the beach when work and school are out, and/or during peak visitor times for tourists. A simple compromise by stakeholders coming together can solve this issue.

Please join us in requesting that Carmel-by-the-Sea move forward with a Wood-burning beach bonfire option on Carmel Beach.

### **GOALS:**

1. Ensure that Scenic Drive residents can enjoy their homes in comfort, without the smoke generated from bonfires serving as a nuisance.
2. Maintain PM2.5 readings in the Carmel beach area at "Good" levels according to EPA Air Quality Standards, and thereby have air quality that is safe for everyone, including those in sensitive populations (e.g. the elderly, children, individuals with pre-existing conditions such as asthma, COPD, and heart disease.).
3. Move forward with a wood-burning beach bonfire trial, limiting the number of fires to no more than 26 at a time, seven days a week, to allow residents and visitors to enjoy our beach when their schedules allow. Consider using temporary fire rings, portable fires rings, or a combination thereof.

These goals can be accomplished if all stakeholders are willing to work together to find a reasonable compromise. If the community of Newport Beach could come together to solve their bonfire issue by reducing the number of fires on their public beach, we can successfully repeat that model here as well, together.

## Annex: CARMEL BEACH MONITOR DATA ANALYSIS

Data Period: 5/21/2015 - 8/7/2015

### **Methodology:**

- Requested the Carmel Beach Monitor raw data from the Monterey Bay Unified Air Pollution Control District (MBUAPCD) on January 9, 2016.
- Analyzed the data collected by the monitor during the time period of 5/21/2015 - 8/7/2015. This data period was selected given that the monitor was installed and data collection began on 5/21/2015, and the Weekend and Holiday Beach Bonfire Ban was implemented by the City of Carmel-by-the-Sea on 8/7/2015.
- Data beyond of this time period was not included, because it comes after the decision had already been made to institute a weekend and holiday ban supposedly on the strength of the data collected to that point, which this briefing refutes.
- Over the course of this period, the Carmel Beach monitor collected 1,871 hours of data. The bulk of the 1-hr. averages were categorized in the "Good" Air Quality Range, according to EPA standards, with a few in the "Moderate" Range, and only eight hours that exceeded the EPA standard.
- The MBUAPCD provided data in an excel sheet in the form of 1-hr. average PM2.5 concentrations, 8-hr. average PM2.5 concentrations, and 24-hr. average PM2.5 concentrations. The PM2.5 concentrations can be compared to the AQIs based on the conversion chart provided in TABLE 3 of the Wildfire Guide for Public Health Officials (see source documents below), but only the 24-hr. average AQI values are tied directly to epidemiological studies that show the incidence of disease related to the level and length of exposure. Therefore, the 24-hour standard serves as the National EPA "official" Standard for Air Quality to protect public health.

### **Source Documents:**

The raw Carmel Beach Monitor Data was analyzed using two primary source documents, published by the EPA (United States Environmental Protection Agency). These EPA source documents are readily available to the public on line:

1. U.S. Environmental Protection Agency, 2014. AQI - Air Quality Index: A Guide to Air Quality and Your Health. Research Triangle Park, NC. EPA Document: EPA-456/F-14-002. Available at: [http://www3.epa.gov/airnow/aqi\\_brochure\\_02\\_14.pdf](http://www3.epa.gov/airnow/aqi_brochure_02_14.pdf)
2. U.S. Environmental Protection Agency, 2012. Wildfire Smoke: A Guide for Public Health Officials. Revised July 2008 (With 2012 AQI Values). Available at: <http://www.arb.ca.gov/carpa/toolkit/data-to-mes/wildfire-smoke-guide.pdf>

### **EPA Air Quality Index (AQI) Values/Charts:**

"The AQI is a nationally uniform index required for reporting and forecasting daily air quality in large urban areas. It is used to report information about the most common ambient air pollutants, including particulate matter." *Source: EPA Wildfire Guide for Public Health Officials, page 26.*

The EPA designed the Air Quality Index to make it easy for the general public to understand how their local air quality relates to the potential health risks from several types of air pollution, especially if their local Air Board issues a "Spare the Air Day" or another type of Air Quality Warning to the public.

According to the EPA, the Air Quality Index (AQI) is like a "yardstick that runs from 0 to 500. The higher the AQI value, the greater the level of air pollution and the greater the health concern." For the purposes of the Carmel Beach Monitor analysis, the air pollutant that is measured is called PM2.5, also known as fine "particle pollution" or "fine particulate matter." "Major sources of fine particles (pollution) include motor vehicles, power plants, residential wood burning, forest fires, agricultural burning, some industrial processes, and other combustion processes."

"An AQI value of 100 generally corresponds to the national air quality standard for the pollutant, which is the level EPA has set to protect public health. AQI values at or below 100 are generally thought of as satisfactory. When AQI values are above 100, air quality is considered to be unhealthy- at first for certain sensitive groups of people, then for everyone as AQI values increase."

Source: U.S. Environmental Protection Agency, 2014. *AQI - Air Quality Index: A Guide to Air Quality and Your Health*, pages 2 & 7.

Here is an AQI chart developed by the EPA to explain the concept to the public, information combined from pages 2 & 8 of the EPA's "AQI - Guide to Air Quality and Your Health." Available on line at: [http://www3.epa.gov/airnow/aqi\\_brochure\\_02\\_14.pdf](http://www3.epa.gov/airnow/aqi_brochure_02_14.pdf)

**EPA AIR QUALITY GUIDE FOR PARTICLE POLLUTION (PM2.5)**

Air Quality Index (AQI) Values	Levels of Health Concern	Color	Actions To Protect Your Health From Particle Pollution
<i>When the AQI is in this range:</i>	<i>... of quality conditions are:</i>	<i>... as symbolized by, this color:</i>	<i>EPA recommendations to protect your health:</i>
0 to 50	Good	Green	None
51 to 100	Moderate	Yellow	Unusually sensitive people should consider reducing prolonged or heavy exertion.
101 to 150	Unhealthy for Sensitive Groups	Orange	The following groups should reduce prolonged or heavy exertion: <ul style="list-style-type: none"> <li>• People with heart or lung disease</li> <li>• Children and older adults</li> </ul>
151 to 200	Unhealthy	Red	The following groups should avoid prolonged or heavy exertion: <ul style="list-style-type: none"> <li>• People with heart or lung disease</li> <li>• Children and older adults</li> </ul> Everyone else should reduce prolonged or heavy exertion.
201 to 300	Very Unhealthy	Maroon	The following groups should avoid all physical activity outdoors: <ul style="list-style-type: none"> <li>• People with heart or lung disease</li> <li>• Children and older adults</li> </ul> Everyone else should avoid prolonged or heavy exertion.

EPA AQI Categories for PM2.5 Pollution Levels from the Wildfire Smoke Guide for Public Health Official:

The EPA also designed a document to aid public health officials to help keep the public safe in an emergency smoke event, such as a wildfire, by creating a chart that makes safety recommendations based on shorter-term breakpoints, than the standard 24-hr. AQI that is normally used to alert the public to PM2.5 air pollution concerns in major metropolitan areas in a non-emergency event.

Below is the portion of the TABLE 3 chart from page 31 of the EPA's "Wildfire Smoke - A Guide for Public Health Officials" that specifies PM2.5 concentration levels at the 1-3 hr, 8-hr & 24-hr levels, and correlates them to the same AQI categories used by the EPA in the AQI guide.

The raw data measurements provided by the Monterey Bay Unified Air Pollution Control District, can be easily converted into AQI Categories, based on color-coding for the "Good," "Moderate," "USG," "Unhealthy," "Very Unhealthy," and "Hazardous" categories. Please note that the 24-hour Averages serve as the National AQI Standard for determining the risk to public health from PM2.5 pollution (see below chart for more detail).

AQI Categories based on PM2.5 Levels

AQI Category (AQI Values}	AQI* Category (Scale}	1-3hr. Avg. PM2.5	8-hr. Avg. PM2.5	24-hr. Avg.** PM2.5	Air Quality
Good	(0 to 50}	0-38	0 - 22	0-12	satisfactory
Moderate	(51 to 100)	39-88	23- 50	12.1- 35.4	satisfactory
USG***	(101 to 150)	89-138	51 - 79	35.5 - 55.4	unhealthy
Unhealthy	(151 to 200)	139-351	80- 200	55.5 - 150.4	unhealthy
Very Unhealthy	(201 to 300)	352-526	201- 300	150.5 -250.4	unhealthy
Hazardous	(> 300)	> 526	> 300	> 250.5 - 500	unhealthy

\*100 AQI is the EPA Standard for Acceptable Air Quality for Public Health, and is comprised of the "Good" & "Moderate" AQI Categories.

\*\*The AQI for particulate matter (PM2.5) is based on predicted or measured 24-hour average concentrations, and is based on directly relevant epidemiological or controlled human exposure studies; PM Levels for shorter averaging times (1- to 3-hr. and 8-hr. averages) are therefore not "official" AQI, values, but have been mathematically derived from the AQI breakpoints for 24-hour concentrations.

\*\*\*\*USG= Unhealthy for Sensitive Groups

It is important to note that the EPA cautions that "the AQI for particulate matter is based on predicted or measured 24-hour average concentrations," that are based on directly relevant epidemiological or controlled studies to protect the public health. While the "PM2.5 levels for shorter averaging times in Table 3 are ... not "official" AQI values, but have been mathematically derived from the AQI breakpoints for 24-hr concentrations... There are no directly relevant epidemiological or controlled human exposure studies that offer guidance in the selection of particulate matter levels with averaging times less than 24-hours." *Source: U.S. Environmental Protection Agency, 2012. Wildfire Smoke: A Guide for Public Health Officials. Revised July 2008 (With 2012 AQI Values), pages 26-27. (See also TABLE 3 chart on page 31). Available on line at: <http://www.arb.ca.gov/carpa/toolkit/data-to-mes/wildfire-smoke-guide.pdf>*

Thereby, the 24-hour AQI levels present the most scientifically valid measure of health risks associated with PM2.5 pollution exposure.

FINDINGS:

- 1) Despite the City of Carmel-by-the Sea's claims to the contrary, an analysis of the data using EPA documentation proves that the Air Quality at Carmel Beach met the EPA Standard for Acceptable Air Quality for Public Health (from 5/21/2015 - 8/7/2015).

Total# of Carmel Beach Monitor 24-hr. Avg. Readings by AQI Category\*  
Data Analysis Period: 5/21/15 through 8/7/15\*\*

AQI Category:	24-hr. Avg. PM2.5	Total# of 24-hr. Avg. by AQI Category	% of Total
Good	0 - 12	1577	84.47
Moderate	12.1 - 35.4	290	15.53
USG***	35.5 - 55.4	0	0.00
Unhealthy	55.5 - 150.4	0	0.00
Very Unhealthy	150.5-250.4	0	0.00
Hazardous	> 250.5 - 500	0	0.00

Subtotal of the "Good" & "Moderate" AQI Categories:\*\*\*\*

Subtotal of the "Unhealthy" Categories:\*\*\*\*\*

Total# of 24-hr. Avg. Readings: 

18671	100.00
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NOTES:

\*The AQI for particulate matter (PM2.5) is derived on predicted or measured 24-hour average concentrations, and is based on directly relevant epidemiological or controlled human exposure studies; PM Levels for shorter averaging times (1- to 3-hr. and 8-hr averages) are therefore not "official" AQI values, but have been mathematically derived from the AQI breakpoints for 24-hour concentrations. Source: "Wildfire Smoke; A Guide for Public Health Officials" Revised July 2008 (With 2012 AQI Values); pps. 26- 27.

\*\*The Carmel Beach Monitor was Installed on 5/21/2015 and the Weekend & Holiday Bonfire Ban began on 8/7/2015.

\*\*\*Unhealthy for Sensitive Groups

\*\*\*\*Unhealthy AQI Categories: Unhealthy for Sensitive Groups, Unhealthy, Very Unhealthy & Hazardous.

- 100% of the 24-Hr. Average PM2.5 Readings Met the National Air Quality Standard Set by the EPA (35.4), which is based directly on relevant Epidemiological or Controlled Human Exposure Studies. Source: U.S. Environmental Protection Agency, 2012. *Wildfire Smoke: A Guide for Public Health Officials. Revised July 2008 (With 2012 AQI Values); pgs. 26 - 27, See also Table 3, page 31.*
- Of the Total 1,867 24-Hr. running Averages PM2.5 collected from 5/21/15 - 8/7/15 from the Carmel Beach Monitor Data, 1,577 of them met the AQI (Air Quality Index) Standard for the "Good" category (0 - 12), which accounted for 84.47% of all of the 24-Hr. Averages. Source: EPA. *Wildfire Smoke: A Guide for Public Health Officials. Revised July 2008 (With 2012 AQI Values); Table 3 on page 31.*
- According to the EPA, the "Good" AQI Category "represents good air quality with little or no potential to affect public health, "including sensitive groups such as the elderly, children, pregnant women, and those with pre-existing health conditions (e.g. Individuals with asthmas and other respiratory diseases,

cardiovascular disease, etc.). Source: U.S. Environmental Protection Agency, 2014. AQI - Air Quality Index: A Guide to Air Quality and Your Health. Research Triangle Park, NC, pages 2 & 7.

- There were a total of 290 of the 24-Hr. Averages that fell into the "Moderate" category (12.1- 35.4), making up a total of 15.53% of all of the 24-Hr. Averages during 5/21/15 - 8/7/15. Source: Analysis of the Carmel Beach Monitor Data (from 5/21/2015 - 8/7/2015); Data provided by MBUAPCD (Monterey Bay Unified Air Pollution Control District on January 9, 2016.
  - The top end of the "Moderate" AQI Category "generally corresponds to the national air quality standard (AQI of 100) for the pollutant which the EPA has set to protect public health." Source: U.S. Environmental Protection Agency, 2014. AQI - Air Quality Index: A Guide to Air Quality and Your Health. Research Triangle Park, NC, pages 2
  - There were **ZERO** 24-Hr. Averages PM2.5 that measured into any of the unhealthy AQI categories (2,355 ), which is comprised of "Unhealthy for Sensitive Groups," "Unhealthy," "Very Unhealthy" & "Hazardous." Source: Analysis of the Carmel Beach Monitor Data (from 5/21/2015 -8/7/2015); Data provided by MBUAPCD (Monterey Bay Unified Air Pollution Control District on January 9, 2016.
- 2) Not only did 100% of the 24-Hr. Averages meet the standard for satisfactory Air Quality, but 99.57% of the 1,8711-Hr Averages collected by the Carmel Beach Monitor met the EPA Standard as well, with an overwhelming 97.54% of the 1-hour averages falling into the "Good" Air Quality Category, and therefore, present little or no potential health risks to anyone, even those in Sensitive Populations (e.g. The elderly, children, and individuals with pre-existing conditions, such as Asthma, other lung diseases, or cardiovascular disease):

Total# of Carmel Beach Monitor 1-hr. Avg. Readings by AQI Category  
Data Analysis from: 5/21/15 through 8/7/15\*

AQI Category:	AQI Values:	Total# of 1-hr. Avg. Readings by AQI Category	% of Total
Good	0-50	1825	97.54
Moderate	51-100	38	<b>2.03</b>
USG**	101-150	6	0.32
Unhealthy	151-200	2	0.11

Subtotal of the "Good" & "Moderate" AQI Categories:

Subtotal of the "USG"\* & "Unhealthy" Categories:

Total# of 1-hr. Avg. Readings: 

18711	100.00
-------	--------

NOTES:

\*The Carmel Beach Monitor was Installed on 5/21/2015 and the Weekend & Holiday Bonfire Ban began on 8/7/2015.

\*\*Unhealthy for Sensitive Groups

- **99.57%** of the 1,8711-Hour Average Measurements collected for PM2.5, during the 5/21/2015 - 8/7/2015 time period, were in the "**Good**" and "**Moderate**" AQI categories, which corresponds to the national air quality standard set by the EPA to protect public health.
- According to the EPA, the "Good" AQI category "**represents good air quality with little or no potential to affect public health,**" including sensitive groups such as the elderly, children, pregnant women, and those with pre-existing health conditions (e.g. Individuals with asthmas and other respiratory diseases, cardiovascular disease, etc.). *Source: U.S. Environmental Protection Agency, 2014. AQI - Air Quality Index: A Guide to Air Quality and Your Health. Research Triangle Park, NC.*
- Nearly **100%** of the 1-Hr. Averages consisted of "**Good**" & "**Moderate**" Air Quality at Carmel, despite unlimited numbers of Beach Bonfires prior to the Weekend & Holiday Ban.
- The remaining eight 1-Hr. Averages, that exceeded the EPA Standard of 100 API for Healthy Air Quality, represented only **0.43%** of all the 1-Hr. Averages collected between 5/21/2015 - 8/7/2015.
- July 4<sup>th</sup> made up **50%** of these unhealthy 1-hr. readings, on a day when the City of Carmel recorded over **135** wood bonfires burning on the beach at 8:30 p.m. Reducing the number of fires, such as in the 26-ring wood bonfire proposal, would significantly improve air quality and smoke issues for residents along Scenic Road and the surrounding areas, while greatly reducing the charcoal remnants that have polluted the sand in recent years. *Source: Analysis of the Carmel Beach Monitor Data (from 5/21/2015 - 8/7/2015); Data provided by MBUAPCD (Monterey Bay Unified Air Pollution Control District on January 9, 2016.)*

Carmel Beach Monitor 1-hr. Avg. Readings Over 100 AQI\*  
(Period from 5/21/2015 - 8/7/2015)

Day of Week	1-hr Avg. PM2.5	8-hr. Avg. PM2.5	Highest
Date			24-hr. Avg. PM2.5****
Time			
Saturday 6/6/2015			Weekend: 6/5 - 6/7
6:00:00 PM	105	31.8	15.2
Saturday 6/13/2015			Weekend: 6/12 - 6/14
7:00:00 PM	113	46.1	26.5
Saturday 6/27/2015			Weekend: 6/26 - 6/28
8:00:00 PM	102	29.3	12.5
Saturday 7/4/2015			Weekend: 7/3-7/5
5:00:00 PM	94	75.1	28.6
6:00:00 PM	115		
7:00:00 PM	148		
8:00:00 PM	153		
Saturday 7/11/2015			Weekend: 7/10-7/12
5:00:00 PM	94	16.2	10.4

AQI Categories based on PM2.5 Levels

AQI Category (AQI Values)	AQI* Category (Scale)	1-3hr. Avg. PM2.5	8-hr. Avg. PM2.5	24-hr. Avg.* PM2.5	Air Quality
Good	(0 to 50)	0-38	0 - 22	0-12	satisfactory
Moderate	(51 to 100)	39-88	23- 50	12.1- 35.4	satisfactory
USG***	(101 to 150)	89-138	51- 79	35.5 - 55.4	unhealthy
Unhealthy	(151 to 200)	139-351	80- 200	55.5 - 150.4	unhealthy
Very Unhealthy	(201 to 300)	352-526	201 - 300	150.5 -250.4	unhealthy
Hazardous	(> 300)	> 526	>300	> 250.5 - 500	unhealthy

\*100 AQI is the EPA Standard for Acceptable Air Quality for Public Health, and is comprised of the "Good" & "Moderate" AQI Categories.

\*\*The AQI for particulate matter (PM2.5) is based on predicted or measured 24-hr avg concentrations, and is based on directly relevant epidemiological or controlled human exposure studies; PM Levels for shorter averaging times (1- to 3-hr. and 8-hr. averages) are therefore not "official" AQI values, but have been mathematically derived from the AQI breakpoints for 24-hour concentrations.

\*\*\*USG= Unhealthy for Sensitive Groups

- It is reassuring to note that the Environmental Protection Agency states that even in a wildfire situation, "long-term risks from short-term smoke exposures are quite low." *Source: EPA's Wildfire Smoke - A Guide for Public Health Officials, page 8*
- By reducing the number of beach bonfires, clearly communicating bonfire rules at beach access points to the beach-going public, while having the city enforce beach bonfire rules consistently, we expect that air quality at Carmel Beach will maintain "good" levels 100% of the time, which pose little to no health risk even to those in sensitive populations (e.g. The elderly, individuals with pre-existing health conditions such as Asthma and Heart Disease, and children). Additionally, we intend to reduce smoke impacts on Scenic Road residents, so as not to interfere with the enjoyment of their homes.

### **CONCLUSIONS:**

1. **The Data from the Carmel Beach Monitor proves that 100% of the Air Quality at Carmel Beach meets the National Air Quality Standards set by the EPA to protect the public health**
  - After analyzing the raw data provided by the Monterey Bay Unified Air Pollution Control District (MBUAPC), and comparing that data to the EPA Standards as set out in the official EPA documents regarding Air Quality Standards and PM2.5 (smoke) pollution, it is clear that 100% of the 24-hour average measurements for the period from 5/21/2015 - 8/7/2015, fell within the "Good" and "Moderate" categories, and thereby, are deemed safe by the EPA.
  - Additionally, the 24-hour average AQIs directly correlate to epidemiological research that can verify PM2.5 levels and exposures that put public health at risk. Based on that standard, the data collected by the Carmel Beach monitor proves that the air quality at Carmel Beach is safe based on quantifiable scientific research.
  - Coastal Commission expert, Dr. Laurie Koteen, also came to this same conclusion after her analysis of the data collected by the Carmel Beach Monitor, as measured during the summer months of May, June, July, and early August, 2015, before the weekend and holiday ban was enacted by Carmel-by-the-Sea.
  - It is important to note that Carmel Beach met this standard despite the fact that there were no limitations on the number of fires during the period analyzed, beach rules were not sufficiently communicated to the beach-going public, especially at beach entry-points, and the city did not dedicate sufficient personnel to enforce the rules, and clean and/or maintain the beach.
  
2. **"Good" & "Moderate" Air Quality readings combined. comprised 99.57% of the 1-hr. averages recorded by the Carmel Beach Monitor, with nearly 98% of the 1-hr. averages measuring in the "Good" Air Quality range, according to the EPA Standards.**
  - According to the EPA, "Good" air quality presents little or no potential health risks to anyone, even those in Sensitive Populations (e.g. The elderly, children, individuals with pre-existing conditions, etc.)
  - While there were eight instances where 1-hour spikes exceeded air quality standards, these spikes posed no long-term health issue for residents, based on the fact that each of these periods attained a "Moderate" rating at the 24-hour mark. The 24-hour averages are "official" EPA Air Quality Standards that are directly tied to disease outcomes based on epidemiological research, and serves

as the gold standard when determining public health risks associated with air quality levels by the EPA.

- 50% of the exceedances occurred on July 4<sup>th</sup> when the City recorded over 135 active beach bonfires at 8:30 p.m. in the evening. It is no wonder that good air quality levels were exceeded given the number of fires burning that night. Since the 26-ring Carmel Beach Fire Pilot proposal allows 109 less fires than those on Carmel Beach the evening of July 4, 2015, we should expect approximately an 80% drop in emissions when all 26-rings are in use.
- One can only assume that Air Quality will be even more improved when beach bonfires are limited in number, rules are enforced, and more personnel and resources are dedicated to beach management by the City of Carmel-by-the-Sea.

**3. The Data collected by the Carmel Beach Monitor shows that there is strong evidence to move forward with a 26-ring wood-burning bonfire trial to mitigate negative impacts from unlimited beach bonfires.**

- Move forward with a 26-ring wood-burning beach bonfire trial, with temporary or portable rings, or a combination of both, perhaps based on seasonality. Providing temporary rings during the bonfire high season (such as May through October), with portable rings during the months of September through April, would help promote access while allowing the beach to stay in a more natural state during slower times of the year.
- Based on the data collected by the Carmel Beach Monitor, it appears that reducing the number of fires allowed, would likely improve overall air quality to "good" levels at all times.
- By limiting the number of fires allowed in fire rings, coupled with educating the public on the beach fire rules (location/distance from bluffs, hours fires are allowed, clean up rules, etc.), should improve smoke impacts on Scenic Road residents, and the surrounding areas substantially, so that they can enjoy their homes without interference from smoke.
- Have Carmel-by-the-Sea put more resources behind communicating the beach fire rules at beach access points, and dedicate personnel to enforce said rules, while providing more ongoing maintenance and clean up.

## Resources, Figures & Links:

### Source Documents:

1. U.S. Environmental Protection Agency, 2014. AQI - Air Quality Index: A Guide to Air Quality and Your Health. Research Triangle Park, NC. EPA Document: EPA-456/F-14-002. Available at: [http://www3.epa.gov/airnow/aqi\\_brochure\\_02\\_14.pdf](http://www3.epa.gov/airnow/aqi_brochure_02_14.pdf)
2. U.S. Environmental Protection Agency, 2012. Wildfire Smoke: A Guide for Public Health Officials. Revised July 2008 (With 2012 AQI Values). Available at: <http://www.arb.ca.gov/carpa/toolkit/data-to-mes/wildfire-smoke-guide.pdf>

### Figures:

1. Figure 1: *Coastal Commission Staff Report by Mike Watson, F12B, Appeal# A-3-CML-15-0033, Report date: 11/25/2015; Hearing date: 12/11/2015, Project Description: Implement the City's {Carmel-by-the-Sea's} Beach Fire Management Pilot Program ...," and Staff Report Addendum for F12b.* Available at: <http://documents.coastal.ca.gov/reports/2015/12/f12b-12-2015.pdf>
2. Figure 2: Letter from Jack Galante to Carmel City Council Members dated Dec. 1, 2015; City Council Meeting Date: Dec. 1, 2015; Agenda Item #7 (May be requested from the City of Carmel-by-the-Sea.)
3. Figure 3: *Schley, Mary, "Weekend fire ban enforced immediately," The Carmel Pine Cone, Volume 101, No. 33, August 14, 2015, page 1A & 18A.* Available at: <http://pineconearchive.fileburstcdn.com/150814PCA.pdf>

*Celebrating 40 years of clean air.*

August 18, 2015

Mike Watson  
Coastal Program Analyst  
California Coastal Commission  
Central Coast Office  
725 Front St., Ste 300  
Santa Cruz, CA 95060

**RE: CARMEL BEACH FIRES**

Dear Mr. Watson:

As you may be aware, the Monterey Bay Unified Air Pollution Control District (District) has been working closely with Carmel-by-the-Sea in an effort to reduce smoke emissions from fires on the City's beach. The District has received numerous complaints over the years from residents that have been impacted by the beach fires. In the past several months the District has received over 50 emails requesting that something be done about the smoke from fires at Carmel Beach.

Since May 22, 2015, the District has been continuously monitoring particulate matter pollution smaller than 2.5 micrometers in diameter {PM2.5} at a residence near the intersection of Scenic Road and 13th. Carefully selected by the District to be representative of air quality conditions along the beach, the E-BAM mass monitor is secure and cannot be seen by the public.

Air monitoring results demonstrate that residents are being exposed to significant levels of particulate matter pollution from beach fires, especially over weekends and holidays. In fact, particulate matter concentrations averaged over one and eight hours during the July 4<sup>th</sup> weekend were high enough to cause health concerns for sensitive populations. According to US EPA's Wildfire Smoke Guide for Public Health Officials, the recommended action to protect public health, based on the levels detected at our monitoring site, would have been to prepare residents for evacuation and identify sites for clean air shelters. Of course, wildfires are typically more prolonged than beach fires. However, the frequency and duration of exposure for residents at Carmel Beach may be longer than that of a wildfire since beach fires may be renewed on a daily basis.

The health effects associated with smoke exposure range from eye and respiratory tract irritation to more serious diseases and disorders, including reduced lung function, bronchitis, exacerbation of asthma and premature death. PM2.5, the respirable fraction of smoke, can penetrate deep into the respiratory system and bloodstream and cause adverse health impacts, including cardiovascular damage, especially for sensitive populations such as the elderly, children and people with preexisting health conditions.

Unlike woodstoves, where an occupant may be relying on the heat generated by a wood fire to warm their residence, beach fires are not necessary. Considering the fact that prohibited materials are often burned along with wood in these open and uncontrolled fires, there is an additional concern over exposure to toxic air contaminants or hazardous air pollutants such as dioxin, heavy metals and polycyclic aromatic hydrocarbons. These materials can be found in the fire pit ash. Many of these toxic substances are persistent and bioaccumulative.

Besides the potential adverse health effects caused by wood smoke from beach fires, there is also a quality of life issue. The odors associated with wood smoke can interfere with a resident's personal enjoyment of their property, thereby creating a nuisance. Smoke odors can be detected at concentrations much lower than those that cause health impacts. Many residents near Carmel Beach have shut their doors and windows during the warmer summer months in an effort to keep smoke odors from invading their homes. The District's Rule 402 is based on California Health and Safety Code 41700 that states, "No person shall discharge from any source whatsoever such quantities of air contaminants or other materials which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public; or which endanger the comfort, repose, health, or safety of any such persons or the public; or which cause, or have a natural tendency to cause, injury or damage to business or property."

The District fully supports Carmel by-the-Sea's efforts to reduce wood smoke from Carmel Beach. Limiting the number of fires rings on the beach is a common sense approach that should be effective in addressing this problem. Increasing the setback distances of the fires from residences and the use of propane instead of wood are also reasonable steps that may significantly reduce smoke impacts to nearby residents. The current moratorium on weekend beach fires during the appeal process with the Coastal Commission will also allow the City to provide even-handed and uniform enforcement during periods when the smoke emissions potential is very high.

Please feel free to contact me if you have any questions regarding this letter.

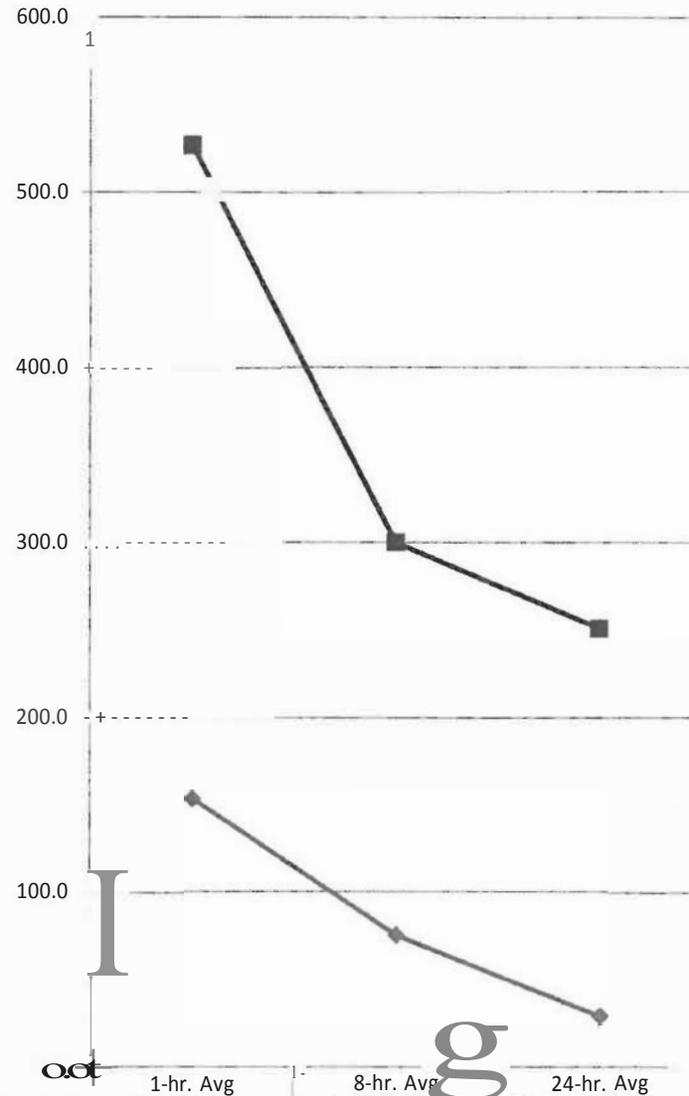
Sincerely,



Richard A. Stedman

Cc: Ken Talmage, City Council Member  
Doug Schmitz, City Administrator  
Rob Mullane, Public Works Director  
Marc Wiener, Senior Planner

## PM2.5 Measurements of July 4 (1-hr., 8-hr. & 24-hr. Avgs.) versus PM2.5 Levels that trigger Evacuation during Wildfires (according to 2012 EPA Wildfire Smoke Guide)



--- July 4 Highest Level PM2.5 - Carmel Beach Monitor

- - - PM2.5 - Consider Evacuation of Sensitive Populations

Note: Source of PM2.5 Evacuation consideration levels from 2012 Wildfire Smoke - A Guide for Public Health Officials; see Table 3 Chatt, p. 31.

July 4 Highest Level PM2.5 - Carmel Beach Monitor	1-hr. Avg	8-hr. Avg	24-hr. Avg
153.0	153.0	75.1	28.6
PM2.5 - Consider Evacuation of Sensitive Populations	153.0	75.1	28.6

**From:** [Katherine Wenglikowski](#)  
**To:** [Tricia Dally](#)  
**Cc:** [daUasforcarmel@amajl.com](#); [carrie.Theis.Council](#); [janetr2016@gmail.com](#); [letsgocarmel@gmail.com](#); [CarQ1YrJ::lard.y](#); [Ashlee Wright](#); [Michael@Coastal.Watson](#)  
**Subject:** Re: Letter and Supporting Documentation for the public record for the Beach Fire Special Meeting to be held on June 30, 9am @ City Hall  
**Date:** Sunday, June 26, 2016 5:01:52 PM

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To Mayor Dallas and the Carmel Council,

I would like to add two thoughts. One is the notion that we really should be employing the beach tractor for clean up (not just of soot caused by old fires) but for trash in general. Maybe once every two weeks? Once a month? The second notion which was also brought up on June 6th is that wood fired could conceivably be moved wood fires to the north end. Mayor McCloud opposed this recommendation because she said there is a danger to not being able to see that far "around the bend" however if the City has already employed a full time beach monitor that person should be able to patrol that area as easily as any other spot on the beach. And not to get to spend-y most cities employ the use of a quad making it that much quicker to respond to issues.

In closing, I love Carmel. I love our beach and I love that we're old fashioned enough in our activities that we value an old fashioned campfire singalong in lieu of trendiness. Let's stay true to our small town values and be the people who protect traditions.

All the very best,

Katherine Wenglikowski

On Jun 26, 2016, at 11: 16 AM, Tricia Dally <[tsdally@yahoo.com](mailto:tsdally@yahoo.com)> wrote:

Dear Mayor Dallas and City Council members,

Unfortunately, I will not be able to attend the re-do of the Beach Fire Special meeting on June 30, as I will be out of town working, but I would like to submit the following letter and supporting documentation for the public record.

I would also like to commend all of you for the Beach Fire proposal plan that you approved during the June 6 meeting - I thought it was a well-thought out plan where all parties shared a reasonable and fair compromise, and I would like to support it wholeheartedly.

Here are my comments regarding the Carmel Beach Fire issue:

Over 500 stakeholders signed a petition in support of a limited number of wood beach fires, in temporary or portable pits, continuing on Carmel Beach. This was over twice

as many who opposed wood fires. The scientific experts who have assessed the data from the Carmel Beach monitor agree that reducing the number of wood fires should solve the problems associated with smoke. Additionally, increasing setbacks, as proposed by the council in the June 6 meeting, will also help avoid smoke from reaching homes and the pathway along Scenic Road.

Many of our local families who are in support of a limited number of wood fires, are pleased to see that an effort is being made to include a wood-fire option in the new proposal to the Coastal Commission, and we hope that a solution can soon be reached between the City and CCC staff recommendations.

We also hope that the community can come together on this issue, with compromises made on both sides, so that we can move forward in a positive manner.

Those of us in support of wood fires, would like to request that wood fires be allowed to start again on weekends and holidays this summer, once a Coastal Development Permit is approved by the California Coastal Commission, as it is difficult with work schedules and children's activity/school schedules to make it to the beach on Monday through Thursday evenings. The rationale for this is that wood fires will be in temporary or portable pits going forward, thereby no longer contributing to blackening of the sand, and the reduction in the number of fires allowed should reduce the amount of smoke so as not to create a nuisance to Scenic residents. Additionally, Mayor Dallas' suggestion to use a beach rake/tractor to thoroughly clean the beach should hopefully remove years' worth of charcoal and litter, thereby returning Carmel Beach to its more natural state.

Personally, as requested in the June 6 meeting, I would also like to propose that consideration be made that the wood fire pits be considered communal or shared, as opposed to first-come, first-served, as this would allow more people to enjoy wood fires, while still reducing the actual number of fires, and I think that the council's proposal at the June 6 meeting to have a maximum of 12 wood fire pits is a reasonable compromise, since the day that caused concern, July 4<sup>th</sup>, had 135 fires burning simultaneously on Carmel Beach.

Additionally, I feel that it is very important to have proper monitoring systems in place to assess any health and safety risks, which can allow for adjustments to the program as necessary. Although, based on my research on the raw Carmel Beach data (see attachment to this email), I am confident that air quality from wood-burning beach fires will be a non-issue going forward if the maximum number of wood fires allowed would be 12 (a reduction to 26 fires as originally approved by the council prior to the ban, should have resulted in "good" air quality as well, which, according to the

EPA presents little to no threat, so a maximum of 12 wood fires should provide a healthy margin of safety).

I also wanted to reiterate some of the salient points regarding the data collected by the Carmel Beach Monitor and the experts' conclusions from that data for the record, since a lot of misleading information has been given both to the public and Coastal Commissioners (such as claims that the smoke on July 4th reached levels that would have caused an evacuation in a wildfire - this is absolutely false; please see attached July 4th chart).

Additionally, some opponents of wood fires are relying on generalized studies of wood smoke, while the Carmel Beach data offers very specific information as to the air quality and safety based on EPA Standards, which are established to protect the public health and are based on thousands of epidemiological research studies, reviewed every 5 years (most recently by the Obama Administration in 2012), that assess health risk based on concentration and time exposure to particulate pollution (eg. smoke) - I apologize in advance for those of you who have heard these arguments already:

- It is important to note that 100% of the Carmel Beach monitor data collected prior to the weekend and holiday ban met both the EPA National Standards, the California State Air Quality Standards, along with our local Monterey Air Quality Board standards, established to protect the public health and the environment. That means ZERO days of unhealthy air for anyone, including those in sensitive populations. In fact, the only exceedence of these official standards was from the Tassajara Wildfire in Carmel Valley, a day when beach fires were banned, according to California Coastal Commission expert, Dr. Laurie Koteen.
- That said, the number of fires on Carmel Beach has grown in recent years, and there have been legitimate concerns about smoke as a nuisance to some residents near Carmel Beach, and potentially a concern to the health of some sensitive individuals when the number of bonfires are unregulated (such as the 135 fires on the evening of July 4, 2015 - if the smoke levels on that evening had continued unabated, they could have exceeded the air quality standards, but fortunately, they did not and would not have even triggered a "Spare the Air Day" in the Bay Area, but there were four hours that raised concern on that evening).
- Both experts in this case, Dr. Laurie Koteen and Mr. Richard Stedman, have stated that reducing the number of wood fires should solve the problem.
- In fact, Dr. Koteen, the research scientist and expert for the California Coastal Commission who analyzed the raw Carmel Beach monitor data, noted in her memorandum that 98% of the hourly data collected by the beach monitor measured in the "Good" air quality category according to EPA guidelines - this is excellent. According to the EPA, "Good" air quality represents little to no threat to anyone, even those in sensitive populations (including the elderly, children, and those with pre-existing medical conditions, such as heart and lung

- disease).
- Dr. Koteen concluded in her report that "... limiting the number of beach fires and better beach fire management. ..would be a prudent and cautious approach to help avoid exceeding 'Good' air quality guidelines inland of that area, but that a ban on all such fires is not supported by the data."
  - Additionally, in a letter to the Coastal Commission dated August 18, 2015, Richard Stedman of our local Air Quality Board also concluded that "Limiting the number of fires (sic) rings on the beach is a common sense approach that should be effective in addressing this problem."

I have attached both Dr. Koteen's Analysis and Mr. Stedman's letter for your reference, and highlighted the relevant sections. If you are interested, you can also look at my analysis of the Carmel Beach Data and the July 4th chart attached.

I think that it is also important to note that by limiting fires to the south of 10th Avenue location, two-thirds of Carmel Beach will not have fires, providing access to those with pre-existing conditions (especially in light of the great reduction in the number of wood fires allowed, which should provide for 'good' air quality at Carmel Beach). The proposal in your June 6 plan to limit the number of hours that wood-beach fires are allowed, would also guarantee more unfettered access to those with pre-existing conditions, while allowing reasonable access to those who want to enjoy the tradition of a wood-burning beach fire to do so responsibly.

We are hopeful that a reasonable agreement can be reached soon, so that locals and visitors alike can enjoy beach fires safely on weekends and holidays, while protecting local residents along Scenic from residual smoke.

Should you have any questions regarding the data, please feel free to contact me. My husband and I have been in partnership with the National Park Service and the National Forest Service for over 16 years, and have gone through several evacuations due to forest fires, including last year's Rough Fire - the largest California forest fire in 2015, and have been through several controlled burns conducted by the Park Service over the years...most recently two weeks ago when an E-bam monitor was installed on-site at our lodge. It is through these experiences that I have become educated on air quality standards and wood-smoke fires, in an attempt to keep our guests and staff safe during the event of a forest fire or controlled burn.

Thank you for your kind attention to this matter and your spirit of compromise for all.

Respectfully,

Tricia Dally

<Dr Koteen Air Quality Analysis of Carmel Beach Data001 .pdf>  
<Richard Stedman Letter to CCCC01.pdf>  
<EXECUTIVE SUMMARY FINAL 17 pg PDF.pdf>  
<July 4 Chart001.pdf>

**From:** Rob.MuHane  
**To:** [Ashlee Wright](#)  
**Cc:** [Leslie Fenton](#); [Chip Rerig](#)  
**Subject:** FW: June 30 Council Meeting  
**Date:** Monday, June 27, 2016 10:45:56 AM

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From: Ken Smith [REDACTED]  
Sent: Monday, June 27, 2016 10:16 AM  
Cc: Steve Dallas Council <sgdallas@yahoo.com>; Carrie Theis <carrie@hofsashouse.com>; Jan Reimers <janreimers@aol.com>; Bobby Richards <bobbyrichards6@gmail.com>; Carolyn Hardy <Chardy824@gmail.com>; Chip Rerig <crerig@ci.carmel.ca.us>; Rob Mullane <RMullane@ci.carmel.ca.us>; Marc Wiener <mwiener@ci.carmel.ca.us>  
Subject: Re: June 30 Council Meeting

Dear Mayor Dallas and City Council members,  
I am writing to make known my displeasure at allowing fires back on the beach every day. It is amazing to me that we continue to pollute our water, sand and air for the enjoyment of so few, many who do not even live in this area.

Regarding the use of combustible materials that are allowed to be burnt, please make sure that signs are posted which would specifically state what may or may not be burnt.

In regards to extinguishing the fires, please make sure there are signs are posted that specifically state how hot ashes must be dealt with

## **8.16.040 Hot Ashes.**

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Hot ashes shall be placed in a **covered metal receptacle**, other than a garbage, commingled recyclable materials or yard waste receptacle, until such ashes are extinguished and cool.  
(Ord. 2002-08 § 1, 2002; Ord. 99-01 § 1, 1999).

That being said I encourage you to take a step to lessen the effects of smoke on our residents by moving the fires from 50 feet to 100 feet away from the BASE of the bluffs.

In addition, the idea of using propane only on the weekends would be a welcome relief to your constituents of this town and begin the process of lessening smoke in the entire area. It has been extremely pleasant not have fires burning all day and night on the weekends-everyone has enjoyed the clean air and beach immensely. I cannot figure out for the life of me why we are changing this restriction.

I would also encourage you to have the fire rings spread out along the entire beach, again to lessen the affect of smoke into such a dense area. This would diffuse the smoke and traffic that accumulates on the busy days.

Please work on these constructive ideas with longer term goals in mind. This pollution cannot

continue as it has; it has destroyed the white sand already. How much longer will this go on?

Sincerely,

Kendall Smith

**From:** Robert Wrubel  
**To:** [Rob Mullane](#); [Ashlee Wright](#)  
**Subject:** Fw: Don't Approve New Pilot Program  
**Date:** Monday, June 27, 2016 11:53: 18 AM

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----- Forwarded Message-----

From: Robert Wrubel [REDACTED]  
To: Steve Dallas <[sgdallas@yahoo.com](mailto:sgdallas@yahoo.com)>; Carrie Theis <[carrie@hofsashouse.com](mailto:carrie@hofsashouse.com)>; Jan and Niels Reimers <[janreimers@aol.com](mailto:janreimers@aol.com)>; Bobby Richards <[bobbyrichards6@gmail.com](mailto:bobbyrichards6@gmail.com)>; Carolyn Hardy <[chardy824@gmail.com](mailto:chardy824@gmail.com)>  
Sent: Monday, June 27, 2016 9:59 AM  
Subject: Don't Approve New Pilot Program

Dear Mayor and City Council Members:

There are serious flaws in the new Pilot Program for Carmel Beach that require you not to approve it:

- 1) It ignores the public health issue of toxic wood fire smoke. This issue was documented with ample testimony in previous Council hearings, underscored by Coastal Commissioner Shallenberger's comment in the Commission's 2015 public hearings : **wood fires are "an unhealthy recreation for our beaches."**
- 2) It ignores California's Health and Safety Code, Title 41700, which states: "a **person shall not discharge from any source... contaminants... that cause injury, detriment or annoyance to any considerable number of persons...**"
- 3) It ignores the **problem of Access** by leaving in place an activity which prevents a significant number of persons from enjoying the beach.

By ignoring these issues, the new Pilot Program acts as if the work of the previous council never took place. It says the health issue is not real, the law is not relevant. The previous Council's program was a test program, a one-year trial. The new program has no time limit. It is in effect a final decision.

On what grounds was this final decision made? Was the evidence of a health issue disproved? Was a legal opinion obtained that California's law doesn't apply in this case? The failure to carry the work of the previous city council to some conclusion, to resolve the issues it raised, deprives the new program of a formal basis, makes it seem arbitrary, a defiance of public will, exposing it to liability.

Proponents of the new program commend it as a "compromise." But it is a compromise only on a side issue - the number of fires. In fact, if wood fire smoke is dangerous to health, even one fire is too many. Once you know that cigarette smoke is carcinogenic, you don't just cut your consumption in half, you give it up completely.

The new program was pushed through hurriedly with limited debate. It should not be approved.

Yours sincerely,

Robert Wrubel  
Carmel

**From:** Rob.Mullane  
**To:** [Ashlee Wright](#)  
**Cc:** [Leslie Fenton](#)  
**Subject:** FW: Beach Management program  
**Date:** Monday, June 27, 2016 12:18:57 PM

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-----Original Message-----

From: Barbara Livingston [REDACTED]  
Sent: Sunday, June 26, 2016 4:20 PM  
To: Carrie Theis <[carrie@hofsashouse.com](mailto:carrie@hofsashouse.com)>; Carolyn Hardy <[Chardy824@gmail.com](mailto:Chardy824@gmail.com)>; Bobby Richards <[bobbyrichards6@gmail.com](mailto:bobbyrichards6@gmail.com)>; Jan Reimers <[janreimers@aol.com](mailto:janreimers@aol.com)>; Steve Dallas Council <[sgdallas@yahoo.com](mailto:sgdallas@yahoo.com)>; Chip Rerig <[crerig@ci.carmel.ca.us](mailto:crerig@ci.carmel.ca.us)>  
Cc: Rob Mullane <[RMullane@ci.carmel.ca.us](mailto:RMullane@ci.carmel.ca.us)>; Marc Wiener <[mwiener@ci.carmel.ca.us](mailto:mwiener@ci.carmel.ca.us)>  
Subject: Beach Management program

Hi all,

The beach management program you are proposing is a compromise of the Coastal Commission staffs demands. But it is not a compromise for the many who are unable to access our beach during burn hours.

You are essentially denying people the right to view sunsets, inhale clean salt air, enjoy a stroll on beach or Senic Rd. path during the prime hours of 4 -7 P.M. Instead of access for all, you will impose access for some.

I suggest you consider these 2 amendments to your proposal.

1. Move the fires to the already established 100 foot line.
2. Create no burn evenings on weekends or Wednesdays and Sundays.

Please know that a very strong sense exists in our village that the only real solution to a Clean beach, clean ocean, clean air calls for no wood fueled fires. We also know that to make your program successful will take continued effort to enforce and that will take a lot of taxpayer money which could be used in so many better and more positive ways.

Barbara Livingston

P.S. You also realize that communal fire rings are each the equivalent of 2 regular size rings? For every communal ring you are creating the equivalent of 2 fires.