



ACTION MINUTES
CAPITOLA CITY COUNCIL
REGULAR MEETING
Thursday, November 8, 2007

6:00 P.M. – CLOSED SESSION – CITY MANAGER’S OFFICE
CAPITOLA REDEVELOPMENT AGENCY & CITY COUNCIL

At 6:00 p.m. in the City Hall Council Chambers, an announcement was made by Mayor Termini regarding the items to be discussed in Closed Session. Seeing no one, the Council adjourned to its Closed Session to be held in the City Manager’s Office.

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION

Significant exposure to Litigation Pursuant to Subdivision (b) of Govt. Code §54956.9
Number of Potential Cases: Two (Save the Habitat claim re: Rispin Mansion Project
and Save the Habitat claim re: PG&E Gas Transmission Line)

6:45 P.M. REDEVELOPMENT AGENCY - (*See Redevelopment Agency Action Minutes*)

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REGULAR MEETING OF THE CITY COUNCIL

Mayor Termini called the Regular Meeting of the City Council to order at 7:00 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

ROLL CALL AND PLEDGE OF ALLEGIANCE

PRESENT: Council Members Bob Begun, Kirby Nicol, Ron Graves, Sam Storey, and Mayor Michael Termini; City Treasurer Tony Gualtieri

ABSENT: None

STAFF: City Manager Rich Hill, City Attorney John G. Barisone, Finance Director Lauren Lai, Community Development Director Juliana Rebagliati, Public Works Director Steve Jesberg, Chief of Police Rick Ehle, Assistant to the City Manager Lisa Murphy, and City Clerk Pamela Greeninger

*** * * PRESENTATIONS * * ***

Mayor’s Proclamations Recognizing
Capitola Junior Lifeguards Caroline and Nick Marani
for their Accomplishments at the U.S. Lifeguard Association’s
National Championships in Myrtle Beach, South Carolina [1050-10]

Mayor Termini commented on the Capitola Junior Lifeguard Program and reputation it has throughout the state for winning competitions. He presented Mayor’s Proclamations to Nick and Caroline Marani for representing Capitola at the U.S. Lifeguard Association’s National Competition in Myrtle Beach, South Carolina in August 2007; one to Nick for taking 8th Place in the Distance Run Event, and one to Caroline for taking 1st Place, and the Gold Medal, in the Women’s Open Beach Flags Event.

Nick Marani thanked the city council for funding the Junior Lifeguard Program. Caroline Marani said she has been a Junior Lifeguard since she was 7 years old. She said it hasn’t always been easy, but she has learned so much from participating in the program. Next year Caroline said she is interested in continuing in the program as a Junior Lifeguard instructor. Mayor Termini commented that he has heard that Caroline would be on the U.S. Olympic Luge Team, and he wished her success.

**Police Department's Volunteers in Policing Program Update
by Mike Banks, VIP Coordinator [480-60]**

Chief of Police Ehle commented on the remarkable job Mike Banks has done coordinating the Police Department's volunteers for the past two years. He thanked Mike for all his work and contributions.

Mike Banks provided an overview of the Volunteers in Policing Program. He said that when he became the program coordinator two years ago there were 5 volunteers and there are now 17. He commented on the training volunteers receive, and he said many of the volunteers are Community Emergency Response Team (CERT) certified. Mr. Banks discussed the various areas of law enforcement where VIPs assist police officers, including, the teen diversion program, court runs, and augmenting staff at the Community Outreach Center at Capitola Mall. The areas they want to deal with more fully are the abandoned vehicle program, performing vacation checks in the neighborhoods, patrolling the Mall and Village areas, and performing home checks for the elderly and shut-ins.

Mr. Banks then discussed their successful efforts in obtaining a grant from the Monterey Bay Unified Air Pollution Control District and said they would have a GEM car on the streets early next year. He discussed other fundraising efforts for VIP vehicles. Council Member Begun asked if they were still short of money for the GEM car. Mr. Banks said they needed about \$2,000. Council Member Nicol said he would pledge \$250. Other council members also pledged similar amounts. In closing, Mike Banks presented Mayor Termini with a symbolic check in the amount of \$18,000 from all of the VIPs, which represents about 1,200 hours of volunteer time.

Mayor Termini thanked the Volunteers in Policing for their service to the City of Capitola.

1. REPORT ON CLOSED SESSION [520-25]

City Attorney Barisone reported that the City Council had only one item of anticipated litigation as noted on the posted agenda. He said the Council received a status report from the City Attorney, discussed the matter and asked questions of counsel. No reportable action was taken.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda

B. Public Comments

Hank Ryan, resident of Surf & Sand Mobile Home Park, commented on the City Council's meeting held August 9, where there was discussion regarding their mobile home park. He prefaced his remarks by stating that he does not represent the residents, and he speaks for himself. Mr. Ryan reported on the actions taken by the residents after the Council's meeting. He also discussed his meeting with the park owner and his concerns about going into a situation that was going to cost everyone a lot of money. Mr. Ryan said he couldn't get any response from the park owner. He understands that a lawsuit has been filed. He just wanted to let the council know where the people in the park stand in this regard. Mayor Termini thanked him for reporting this information to the council. **[750-25]**

C. Staff Comments

1) Finance Director Lai reported on the kickoff meeting of the Financial System Steering Committee. She said the committee would meet monthly. Council Member Graves asked if the council could be provided with written information regarding the amount of staff time this takes, what the goals and objectives are, etc. He is concerned about duplication of services. Finance Director Lai said the committee would be very similar to other committees in that agendas will be posted and minutes will be prepared and provided to all committee members. City Manager Hill commented that the main product of the committee is to identify a financial system to replace the city's current financial system and that getting department interest up front is important.

ACTION: Staff was directed to provide council members with agendas and minutes for the Financial System Steering Committee. **[330-40]**

2. C. ORAL COMMUNICATIONS (Continued)

2) Chief of Police Ehle announced that on November 13, from 10 a.m. to 12 noon, an Emergency Preparedness Forum will take place at Jade Street Park Community Center. This forum is especially important for those dealing with people with disabilities and the elderly in emergency situations.

D. City Council/Treasurer Comments

1) City Treasurer Gualtieri said the Finance Advisory Committee would meet on Tuesday, November 13, at 6 p.m. in the Community Room.

2) Mayor Termini announced that our City Clerk, Pam Greeninger, is celebrating her 28th anniversary working for the City of Capitola.

3) Council Member Storey asked to place an emergency item on the agenda for council action. He explained that the Capitola Commission on the Environment has an opportunity to work with UCSC to sponsor a lecture in the Capitola City Council Chambers in the near future. The topic will concern climate change, global warming, and how they affect our local water resources. He said very distinguished professors from the university would be putting on this event. The reason it is an emergency is that the Commission on the Environment only learned about it yesterday, and in order for them to sponsor the event they need Council's approval.

City Attorney Barisone informed the council that the finding it needs to make is that the matter came to the council's attention after the agenda was posted and that it cannot wait until the next city council meeting for action. He said the Council could add the matter as the last item on the consent agenda.

ACTION: Council Member Storey moved, seconded by Council Member Nicol, to add an item to the Consent Calendar, Item 3.L., to Approve Sponsorship by the Commission on the Environment of a Lecture to be held at Capitola City Hall by UCSC on climate change, global warming, and how they affect our local water resources, with the finding that the matter arose after posting the agenda and needs to be acted upon prior to the Council's next regular meeting on December 13, 2007. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None. **[430-05]**

4) Council Member Begun said he and Public Works Director Steve Jesberg have been working together regarding the five bridges in Capitola, and they have delivered correspondence to the council. In addition, a letter has been sent by the mayor to Union Pacific asking them to provide the city with information about inspections and maintenance.

E. Committee Reports/Appointments

1) **Appointment of Capitola Representative to the Advisory Council of the "Area Agency on Aging (AAA)" [150-70/110-10]**

ACTION: Council Member Begun moved, seconded by Council Member Storey, to appoint Sandra Williams as Capitola's Representative to the Advisory Council of the "Area Agency on Aging" of Santa Cruz & San Benito Counties. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

Sandra Williams introduced herself to the City Council and informed them that she attended her first meeting of the Advisory Council. She is very impressed with the people who administer the program, and she is happy to represent the City of Capitola. Council Member Begun requested that she report back to the council from time to time on activities of the AAA.

2. F. Approval of Check Register Report [300-10]

Council discussion regarding changes that have been made to information provided in the Check Register Report was followed by this action:

ACTION: Council Member Nicol moved, seconded by Council Member Begun, to approve the Check Register Reports dated October 19 and October 26, 2007, including checks numbered 53508 through 53594 in the amount of \$243,492.63, and checks numbered 53595 through 53649 in the amount of \$116,784.22, and payroll disbursements for the October 20, 2007, payroll in the amount of \$182,378.00, respectively, for a Grand Total of \$542,654.85, as submitted. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

3. CONSENT CALENDAR

Mayor Termini asked if there were any items members of the council or public wished to pull for separate discussion. Council Member Graves said he had questions on Items 3.J. and 3.K. Council Member Begun said he had a question on 3.F. (*See discussion under those items.*) Council Member Graves then pulled Item 3.I. pertaining to the Christmas Tree in the Village for separate discussion. Mayor Termini advised Item 3.I. would be discussed at the end of the meeting following Other Business Item 5.D. (*See discussion and action on Pages 8 and 9.*)

CONSENT CALENDAR ACTION: Council Member Nicol moved, seconded by Council Member Graves, to approve the Consent Calendar, including Added Item 3.L., as recommended, and with the additional submittal date information suggested by Council Member Graves for the Planning Commission/Architectural and Site Review Committee Meeting Schedule (Item 3.K.). The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

A. Waive Reading of all Ordinances and Resolutions on the Agenda.

ACTION: The City Council unanimously approved the reading by title of all Ordinances and Resolutions and declared that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

B. Approve City Council Minutes – None

C. Receive Planning Commission Action Minutes for the Regular Meeting of November 1, 2007. [740-50]

ACTION: The City Council unanimously received the Planning Commission Action Minutes for the Regular Meeting of November 1, 2007, as submitted.

D. Approve Reasonable Accommodation Administrative Policy. [600-25/ Administrative Policy Binder]

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to approve the Reasonable Accommodation Administrative Policy, as submitted. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

E. Soquel Union Elementary School District Multi-Use Room and Gymnasium Boundaries. [235-10/1150-05]

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to direct staff to send the proposed letter to the Division of the State Architect to limit construction near the boundary between the Soquel Union Elementary School District Multi-Use Room and the Gymnasium, as recommended. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

3. CONSENT CALENDAR (Continued)

F. Approve Capitola/Soquel Chamber of Commerce Request for Suspending Parking Meter Enforcement in the Village from November 23, 2007 through December 26, 2007. [470-30]

Council Member Begun commented that this is an annual request of the Chamber of Commerce to bag the meters and it will cost the city about \$10,000 in lost revenues per year. He asked if this was in the budget. Finance Director Lai said if the question is pertaining to whether the revenue of \$10,000 is in the budget, the answer is no.

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to approve the request of the Capitola-Soquel Chamber of Commerce to suspend parking meter enforcement in Capitola Village from Friday, November 23 through Wednesday, December 26, 2007. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

G. Approve and Publish the FY 2006-07 Annual "Cities Financial Transactions Report to the State Controller's Office." [380-05]

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to accept the "Cities Financial Transactions Report" to the State Controller's Office and directed the City Clerk to publish the City of Capitola's 2006-07 "Summary Report of Annual Financial Transactions" in the Santa Cruz Sentinel Newspaper. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

H. Adopt Resolution Establishing Days for Closure of City Offices During the 2008 Calendar Year. [630-10]

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to adopt **Resolution No. 3666, Resolution Establishing Days for Closure of City Offices During the 2008 Calendar Year.** The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

I. Approve Placement of the Annual Village Christmas Tree on the Capitola Bandstand for One Month.

This item was pulled for separate discussion. (See Pages 8 and 9.)

J. Accept California Public Employees Retirement System (PERS) Annual Actuarial Valuation Report for June 30, 2006. [630-10]

Council Member Graves commented on Page 2 of the Agenda Report, "Risk Pooling," which says, "Capitola moved into the 2.5% @ 55 Risk Pool on December 30, 2007." Finance Director Lai clarified it should say, "Capitola will move into 2.5% @ 55..."

Council Member Begun referred to Attachment 2, Page 3, "Required Employer Contributions, Fiscal Year 2008/2009," and said it shows Amortization of Side Fund at \$30,063; however, he thought the City paid off the side fund. City Manager Hill responded saying the city did pay it off, but then the 2.5% @ 55 was put into place. Finance Director Lai also discussed the change in the Miscellaneous employee plan to 2.5% @ 55 and the employee cost sharing percentages.

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to accept the California Public Employees Retirement System (PERS) Annual Actuarial Valuation Report for June 30, 2006, as submitted. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

3. CONSENT CALENDAR (Continued)

K. Receipt of City Meeting Schedules for City Council/Redevelopment Agency and Planning Commission/Architectural and Site Review Committee for the 2008 Calendar Year. [520-40]

Council Member Graves commented on the Planning Commission/Architectural and Site Review Committee Meeting Schedules for 2008. He thinks there should be submittal deadline dates for Planning Commission meetings, similar to those on the City Council/Redevelopment Agency Meeting Schedule, as it would clarify things for members of the public.

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to receive the 2008 City Meeting Schedules as an informational item and directed staff to post this information at City Hall, the Capitola Branch Library, on the City's Website, and provide copies to department heads, newspapers and various groups that regularly submit items to the City. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

L. * ADDED ITEM* Approve Sponsorship by the Commission on the Environment of a Lecture by UCSC Professors to be held at Capitola City Hall on Climate Change, Global Warming, and How they Affect Our Local Water Resources. [430-05]

ACTION: Council Member Nicol moved, seconded by Council Member Graves, to Approve the proposed Sponsorship by the Commission on the Environment of a Lecture by UCSC Professors to be held at Capitola City Hall on a date to be determined regarding Climate Change, Global Warming, and How they Affect our Local Water Resources. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

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BEGIN JOINT MEETING4. **PUBLIC HEARINGS**

Mayor/Chairperson Termini called the Special Joint Meeting of the Capitola City Council/Redevelopment Agency to order at 7:56 p.m., noting that all Council Members/Agency Directors, City Treasurer Gualtieri and Redevelopment Agency Treasurer Saldavia were present.

A. Public Hearing on Application to State of California Community Development Block Grant (CDBG) Program for a Planning and Technical Assistance Grant of \$35,000 for Preparation of City Hall Site Re-Use Study. Presentation: Community Development Department. [700-10]

The City Council/Redevelopment Agency Directors received staff's report on this item, conducted the required public hearing (no one from the public spoke), and took the following separate actions:

Redevelopment Agency Action

ACTION: Director Nicol moved, seconded by Director Begun, to adopt **Agency Resolution No. 2007-14, Resolution of the Redevelopment Agency of the City of Capitola Approving \$4,375 in Cash Match for a Grant Application to the Planning/Technical Assistance Allocation of the State CDBG Program for a City Hall Site Re-Use Study.** The motion carried on the following vote: AYES: Directors Begun, Nicol, Graves, Storey, and Chairperson Termini. NOES: None. ABSENT: None. ABSTAIN: None.

There was additional discussion prior to the following action being taken by the City Council.

4. A. PUBLIC HEARINGS (Continued)

City Council Action:

ACTION: Council Member Nicol moved, seconded by Council Member Storey, to adopt **Resolution No. 3667, Approving an Application for Funding and the Execution of a Grant Agreement and any Amendments thereto from the Planning/Technical Assistance Allocation of the State CDBG Program for a City Hall Site Re-Use Study.** The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

Following the Joint Meeting with the City Council, the Capitola Redevelopment Agency adjourned at 8:07 p.m.

END JOINT MEETING

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5. OTHER BUSINESS

A. Pacific Cove Mobile Home Park Rent Increase. Staff recommendation: authorize staff to begin the process to increase space rents at the Pacific Cove Mobile Home Park for owners who are considered to be part-time residents and therefore are exempt from rent control. [260-10]

The City Council received staff's report on this item from Assistant to the City Manager Murphy. Several members of the public addressed the council regarding this item.

Council discussion was followed by this action:

ACTION: Council Member Storey moved to continue this item with direction to staff to bring back the additional information requested by council members during discussion of this item, including: advice from legal counsel on the impacts it would have on current litigation if the Council were to take this action.

Mayor Termini suggested a friendly amendment that staff be directed to make certain that all residents of Pacific Cove Mobile Home Park receive all of the documentation they should and are fully informed of exactly what's going on at the mobile home park. Council Member Storey accepted the amendment. Council Member Nicol seconded the motion as amended.

Council Member Graves said he would be interested in obtaining additional information pertaining to relocation costs, as they relate to permanent residents and part-time residents. Mayor Termini said a report had been prepared about 1½ years ago concerning the different tiers of compensation for relocation. Council Member Storey and Council Member Nicol accepted request of Council Member Graves to include additional information pertaining to relocation costs in their motion.

The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

B. First Amendment to the Professional Services Agreement with Endeman, Lincoln, Turek & Heater for Services Related to Mobile Home Rent Control in the amount of \$40,000. Staff recommendation: authorize First Amendment and adopt budget resolution transferring \$40,000 from the Contingency Reserve Fund to the City Attorney Contracts Account. [330-10/750-25/500-10 A/C: Endeman, Lincoln, Turek & Heater]

5. B. OTHER BUSINESS (Continued)

The City Council received staff's report on this item. Council discussion was followed by this action:

ACTION: Council Member Begun moved, seconded by Council Member Graves, to approve the recommended action as follows:

- 1) Authorized execution of the First Amendment to the Agreement for Special Counsel Services between the City of Capitola and Endeman, Lincoln, Turek & Heater, LLP, in the amount of \$40,000 for Mobile Home Park rent control litigation; and
- 2) Adopted **Resolution No. 3668, Resolution Amending the 2007-2008 Budget by Transferring \$40,000 from the Contingency Reserve Fund to the City Attorney Department Contract Services Account Increasing City Attorney's Contract Expenditures by \$40,000 for Litigation Expenses related to Defending the Mobile Home Park Rent Control Ordinance.**

The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

C. Regional Housing Needs Allocation. Staff recommendation: accept staff reports on the Regional Housing Needs Allocation (RHNA) process and AMBAG's draft RHNA allocation numbers for Capitola. [150-10]

Housing and Redevelopment Project Manager Foster summarized the written agenda report and responded to questions of council members. One member of the public addressed the council on this item.

Council discussion was followed by this action:

ACTION: Council Member Begun moved, seconded by Council Member Nicol, to accept the staff's reports on the Regional Housing Needs Allocation process and AMBAG's draft RHNA allocation numbers for the City of Capitola, as submitted. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

D. Status of City's Red Light Photo Enforcement Program. Staff recommendation: accept report and provide direction. [490-20]

Chief of Police Ehle summarized the written agenda report and provided an update on the red light cameras on 41st Avenue. He announced that the red lights are now operable at the 41st Avenue and Clares Street intersection. He said the warning period is effective for 30 days and that citations would be issued commencing sometime between the 1st and 5th of December.

Council discussion was followed by this action:

ACTION: Council Member Graves moved, seconded by Council Member Storey, to accept the status report from the Police Department on the City's Red Light Photo Enforcement Program, as submitted. It was noted that no further direction was necessary at this time. The motion carried unanimously.

AT THIS POINT, ITEMS REMOVED FROM CONSENT CALENDAR WILL BE CONSIDERED

3. CONSENT CALENDAR (*Items pulled for separate discussion.*)

I. Approve Placement of the Annual Village Christmas Tree on the Capitola Bandstand for One Month. [1050-70/1040-20 Bandstand]

3. I. CONSENT CALENDAR *(Items pulled for separate discussion - Continued.)*

Council Member Graves pulled this item because he has concerns about the new home the tree is finding this year on the Bandstand. He said no one would see it at that location. He suggested thinking about finding a permanent home for the tree where the roots would be in the ground. One place that was suggested to him by Council Member Nicol was the Stockton/Wharf Road Park. He said you could see it better there. He also thought the location in front of Souza's Ice Cream was a good one.

After council discussion, the following action was taken:

ACTION: Council Member Graves moved, seconded by Council Member Begun, to approve the request from the Capitola Village and Wharf Business Improvement Area to place the Annual Village Christmas Tree on the Capitola Bandstand from Thanksgiving week through the end of December. The motion carried on the following vote: AYES: Council Members Begun, Nicol, Graves, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

6. **ORAL COMMUNICATIONS**

A. Mayor Termini asked how close staff was coming to an ordinance for surf schools. City Attorney Barisone said he has received information from the Police Department and will begin working on it. It was decided to bring the matter to Council in January.

B. Council Member Begun commented that the two Saturday community meetings conducted with the Police Department have prompted many emails and an article in the Capitola Times. He is coming to the conclusion that we need the two motorized vehicles for the volunteers and/or one or two more police officers on staff.

7. **ADJOURNMENT**

The City Council adjourned at 9:39 p.m. to a Special Meeting of the Capitola City Council regarding the Continued Public Hearing Item on the Rispin Mansion Restoration and Hotel Project to be held on Thursday, December 6, 2007, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.