

**CAPITOLA CITY COUNCIL
REGULAR MEETING MINUTES
THURSDAY, FEBRUARY 28, 2013 - 7:00 PM**

**CLOSED SESSION – 6:00 PM
CITY MANAGER’S OFFICE**

CALL TO ORDER

Mayor Harlan called the meeting to order at 6:00 PM and announced the items to be discussed in Closed Session, as follows:

CONFERENCE WITH LABOR NEGOTIATOR (Govt. Code §54957.6)

Negotiator: Jamie Goldstein, City Manager
Employee Organizations: Capitola Police Officers Association and Capitola Police Captains

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Govt. Code §54956.9)

City of Capitola, et al. vs. Lexington Insurance Company [United States District Court, Northern District of California, Case No. 5:12-CV-03428-LHK].

CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Govt. Code § 54956.8)

Property: 401 Capitola Ave., Capitola; APN 035-13-111
Agency Negotiator: City Manager
Negotiating Parties: City of Capitola and property owner
Under Negotiation: Property Negotiations

**CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION
Significant Exposure to litigation pursuant to subdivision (b) of Govt. Code §54956.9**

1. County of Santa Cruz regarding the Noble Gulch pipe failure;
2. County of Santa Cruz — Property Tax Administrative Fee Dispute.

Mayor Harlan noted that there was no one in the audience; therefore, the City Council recessed at 6:05 p.m. to the City Manager’s Office.

REGULAR MEETING OF THE CAPITOLA CITY COUNCIL – 7:00 PM

1. ROLL CALL

PRESENT: Council Members Michael Termini, Dennis Norton, Sam Storey, Ed Bottorff
and Mayor Stephanie Harlan
ABSENT: None

2. PRESENTATIONS

- A. Certificate of appreciation to Karl Forest who served on the Commission on the Environment. [120-40/430-05]
- B. Certificate of appreciation to Anne Nicol and Peter Roddy who served on the Traffic & Parking Commission. [120-40/470-60]

Certificates of appreciation were received.

12372 CAPITOLA CITY COUNCIL MINUTES - Thursday, February 28, 2013

Police Chief Escalante requested a moment of silence for Sergeant Butch Baker and Detective Elizabeth Butler, both officers from the City of Santa Cruz recently passed away.

Council Member Harlan provided recognition regarding former Council Member and Mayor Phillip J. Walker, who recently passed away.

3. **REPORT ON CLOSED SESSION** [520-25]

Assistant City Attorney Paterno reported that prior to tonight's Closed Session the City Council made the findings to add 2 letters to the Closed Session Agenda that were provided after the posting of the Agenda. The letters were regarding threatening litigation related to the proposed Urgency Firearms Ordinance (**Item 9.B.**); there was no reportable action. Council had conference with the City Manager (City's labor negotiator) regarding negotiations with the Capitola Police Officers Association and Capitola Police Captains; no reportable action was taken. The Council received an update regarding existing litigation related to the City of Capitola, et al. vs. and Lexington Insurance Company, however took no reportable action. The City Council did not discuss the real property negotiation item as listed on the Closed Session Agenda. The City Council did not discuss the initiation of litigation related to the County of Santa Cruz regarding the Noble Gulch pipe failure. The Council did discuss the initiation of litigation regarding the Property Tax Administrative Fee Dispute with the County of Santa Cruz; however, they took no reportable action.

4. **ADDITIONS AND DELETIONS TO AGENDA** (none provided)

5. **PUBLIC COMMENTS**

Brian Peoples, Aptos High School Rail-to-Trail Club (Club) representative, stated that the Club is promoting the development of a pedestrian/bicycle trail instead of a tourist train in Santa Cruz County.

Michael Lynn, owner of the Bay Bar and Grill, reported on recent criminal activity that occurred in the Esplanade.

6. **COUNCIL/STAFF ANNOUNCEMENTS**

Council Member Termini stated that on March 5, 2013, Shadowbrook Restaurant is having a fund raiser to benefit the American Red Cross. In addition, there will be a Soroptimist Violet Richardson Award presented to a local citizen on March 13, 2013, at the Seascape Resort.

Mayor Harlan stated that she attended the February 27, 2013, Santa Cruz Business Council Annual Meeting along with Council Members Bottorff and Termini. In addition, on March 11, 2013, the Monterey Division of the League of California Cities will be having a division meeting at Seascape Resort.

7. **BOARDS, COMMISSIONS AND COMMITTEES APPOINTMENTS** [110-10]

A. Consideration of appointment to the Advisory Council on the Area on Aging.

This item was continued.

8. CONSENT CALENDAR

Public Works Director Jesberg requested that Item 8.C. be pulled for discussion.

- A. Approval of City Check Register Reports dated January 18, 2013; January 25, 2013; February 1, 2013; February 8, 2013; and February 15, 2013. [300-10]
- B. Adoption of Ordinance No. 980 amending Municipal Code Sections 8.38 of the Capitola Municipal Code Pertaining to Smoking Regulations [2nd Reading]. [460-70]
- C. Consideration of City Hall tree replacement. [1030-60]
- D. Authorization for the City Manager to recruit for the position of Senior Planner. [650-05]

ACTION **Motion made by Council Member Termini, seconded by Council Member Norton, to approve Items 8.A, 8.B., and 8.D. on the Consent Calendar. The motion was approved unanimously.**

- C. Consideration of City Hall tree replacement.

Public Works Director Jesberg stated this item was pulled to notify the Council that staff requires additional time to discuss the planting of trees at Jade Street Park with the Soquel Union Elementary School District, and that the mitigation trees may need to be planted elsewhere.

ACTION **Motion made by Council Member Termini, seconded by Council Member Norton, to approve the City Hall tree replacement. The motion was approved unanimously.**

9. GENERAL GOVERNMENT/PUBLIC HEARINGS

- A. Update on Lower Pacific Cove Parking Lot Project. [265-10]

Update received.

- B. Consideration of an Urgency Ordinance revising and supplementing current Capitola Municipal Code Chapter 5.32 Firearms and Ammunition Regulations, and adopting regulations pertaining to the possession of firearms on City property and public property in the vicinity of schools. [485-10]

The following residents spoke against the proposed Urgency Ordinance.

Steve Wasylko
Shawd DeWitt
Colleen Clark
Ema DeWitt

Bob Thomas, Outdoor World owner, provided information regarding services related to firearms provided at Outdoor World.

12374 CAPITOLA CITY COUNCIL MINUTES - Thursday, February 28, 2013

ACTION

Revised *Urgency Ordinance No. 979* was approved. The motion carried with the following vote: **AYES: Council Members Norton, Bottorff, Storey and Termini.** **NOES: Mayor Harlan.** **ABSENT: None.** **ABSTAIN: None.**

The City Council adopted *Urgency Ordinance No. 979* as provided in the February 28, 2013, City Council packet with the following revisions to the draft Ordinance:

Revising the following draft text (strikeout) in Section 5.32.020 – Definitions:

~~“Firearms dealer” includes any business that sells, leases, transfers, advertises, or exposes for sale, lease, or transfer any firearm or ammunition for firearms”.~~

Adding the following text (underline) to Section 5.32.070 – Business Site Standards:

“The business location must be in the Community Commercial zoning district, and in compliance with city building and fire codes and regulations”.

Removing the following draft text (strikeout) to Section 5.32.070 – Business Site Standards:

~~“The business site must be located at least 2,000 feet from any other existing business with a firearms license”.~~

Removing the following draft text (strikeout) to Section 5.32.160. Number of Retail Firearms Dealers Permitted:

~~“A maximum of two retail firearms dealers shall be allowed to operate in the City of Capitola”.~~

Removing the following draft text (strikeout) to Section 5.32.170 Gun Shows:

~~“Gun shows or events shall be prohibited in the City. For purposes of this section, a gun show or event is any event at which firearms, as defined in section 5.32.020.A, are sold, transferred, leased or offered or advertised for sale, transfer or lease. This section shall not apply to the display or sale of antique firearms as defined in section 5.32.020.A”.~~

Revising the following draft text (strikeout) to Section 5.32.180 Existing Firearms Dealers:

~~“Firearms dealers legally transacting business in the city as of February 28, 2013, who had previously obtained a firearms dealer permit shall comply with all provisions of this Code, with the exception of 5.32.070 (G). If such existing dealers are located outside the Community~~

~~Commercial District, such uses shall be considered legal nonconforming uses. If an existing firearms dealer increases its firearms or ammunition display area over that which it maintained as of February 28, 2013, the firearms dealer shall no longer be considered a legal nonconforming use. Such firearms dealers shall thereafter comply with all requirements of this Code".~~

Revising the following draft text (strikeout and underline) to Section 5.32.190 Firearms Security:

~~"Every owner of a firearm in the city shall be required to assure that each such firearm is locked follow the safest and secured when he or she is not in actual possession of the firearm so as to assure, to best practices for the extent reasonable, that no other person may access or use that firearm outside securing of firearms in the presence of the owner home".~~

- C. Consideration of approving the revised Board, Commission and Committee Guide Procedures, the City Manager Memorandum regarding public meeting teleconferencing procedures, and the Teleconferencing Requests Form. [100-10]

ACTION The City Council unanimously approved this item.

10. COUNCIL/STAFF COMMUNICATIONS

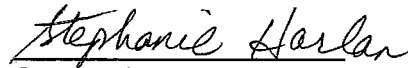
General Plan Coordinator Westman stated that at the March 7, 2013, Planning Commission meeting a new Toyota Auto Dealership in the City was considered.

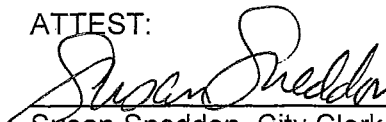
11. CITY COUNCIL/TREASURER COMMENTS/COMMITTEE REPORTS

None provided

12. ADJOURNMENT

Mayor Harlan adjourned the meeting at 10:00 PM to the next Regular Meeting of the City Council on Thursday, March 14, 2013, at 7:00 PM, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.


Stephanie Harlan, Mayor

ATTEST:
 CMC
Susan Sneddon, City Clerk