

**CAPITOLA CITY COUNCIL
REGULAR MEETING ACTION MINUTES
NOVEMBER 20, 2012 - 7:00 PM**

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

CALL TO ORDER

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

CONFERENCE WITH REAL PROPERTY NEGOTIATOR Govt. Code § 54956.8

Property: 420 Capitola Ave., Capitola; APN 035-141-35

Agency Negotiator: City Manager

Negotiating Parties: City of Capitola and On Air LLC

Under Negotiation: Property Negotiations

Property City of Capitola Gym, 250 Washburn Avenue, Capitola; APN 036-101-37; (City of Capitola, Owner)

Agency Negotiator: City Manager

Negotiating Parties: City of Capitola and the Soquel Union Elementary School District

Under Negotiation: Real Property Lease/Sale

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant Exposure to litigation pursuant to Government Code §54956.9 (b)

1. City of Capitola Insurance Coverage Claim Against Lexington Insurance (Noble Gulch pipe failure);
2. Santa Cruz County regarding the Noble Gulch pipe failure;
3. Pacific Cove Mobile Home Park closure.

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Government Code §54956.9 (a)

1. Kevin Calvert, D.D.S. and Pamela Calvert vs. City of Capitola, et al. [Superior Court of the State of California for County of Santa Cruz, Case #CV 172804];
2. Katie Saldana vs. City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV 172324];
3. Foremost Insurance Company vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV 173228];
4. Truck Insurance vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV173071];
5. David Ross; Carousel Taffy Morro Bay, Inc.; Village Mouse dba; The Thomas Kinkade Gallery Capitola; Judith Ferro vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV 173642];
6. American Alternative Insurance Corporation; Central Fire Protection District of Santa Cruz County vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV173926];
7. California Capital Insurance Company [Superior Court of the State of California for the County of Santa Cruz, Case #CV173552];
8. Trustees of the John T. Kawahara and Barbara J. Kawahara Revocable Trust [Superior Court of the State of California for the County of Santa Cruz, Case #CV175216];
9. Brian Alexander [Superior Court of the State of California for the County of Santa Cruz, Case #CV173256].

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

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

CALL TO ORDER

Mayor Termini called the Regular Meeting of the Capitola City Council to order at 7:05 p.m.

1. ROLL CALL

PRESENT: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini
ABSENT: None

2. PRESENTATIONS

- A. Proclamation recognizing Heartland Hospice and proclaiming December 1, 2012, "Heartland Hospice Day". [120-40]

Forbes Ellis and Bradford Beaulieu of Heartland Hospice received the proclamation, and commented on the "Life up a Life" to be held on December 1, 2012, in Capitola.

3. REPORT ON CLOSED SESSION

Assistant City Attorney Paterno announced that no reportable action was taken during closed session. [520-25]

4. ADDITIONS AND DELETIONS TO AGENDA (None provided)

5. PUBLIC COMMENTS

Sandy Erickson, 117 Cabrillo Street, commented that the City "miraculously" discovered a surplus of funds after the passage of the City's Measure O. She suggested a public audit of City's expenditures for Police Department overtime.

6. COUNCIL/STAFF ANNOUNCEMENTS

Council Member Norton requested that staff prepare a letter of support from the Mayor regarding the termination of the Southern Sea Otter Translocation Program.

Mayor Termini stated there are vacancies on various City committees and commissions. He stated that the Art & Cultural Commission suggested having a St. Patrick's Day Parade this year and requested that a discussion item be agendaized for a future City Council meeting.

City Manager Goldstein announced that yesterday the California Supreme Court made a decision related to a lawsuit that 47 cities filed against the County of Los Angeles imposing a property tax administration fee as it relates to the Educational Revenue Augmentation Fund (ERAF) and the "Triple Flip Swap" in order to cover the cost of administering the county's property tax system. The cities effectively won. He noted that in 2009 the City entered into a tolling agreement with the County of Santa Cruz regarding this issue. The City received a letter from Mary Jo Walker, Santa Cruz County Auditor-Controller, regarding the county preparing an analysis. He will keep the Council apprised of the progress.

7. BOARDS, COMMISSIONS AND COMMITTEES APPOINTMENTS (None provided)

8. CONSENT CALENDAR

Council Member Norton requested that Item 8.C. be pulled for discussion.

- A. Consideration of approving the City Council Minutes of the Regular Meeting of August 9, 2012.
- B. Approval of City Register Reports dated October 19, 2012; October 26, 2012; November 2, 2012; and November 9, 2012. [300-10]
- C. Consideration of adding a Disability Access and Education Fee to the Fiscal Year 2012/2013 Fee Schedule based on Senate Bill No. 1186. [390-40]

ACTION Motion made by Council Member Storey, seconded by Council Member Nicol, to approve Item 8.A. and Item 8.B. The vote was unanimous.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS

- A. Consideration of a Resolution extending a red curb line on Clares Street between 41st Avenue and Derby Lane. [490-40]

ACTION Motion made by Council Member Nicol and seconded by Council Member Norton to adopt Resolution No. 3943 extending a red curb line on Clares Street between 41st Avenue and Derby Lane. The motion carried unanimously with the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

- B. Receive update on the Rispin property ownership. [810-10]

ACTION Motion made by Council Member Norton, seconded by Council Member Storey, to receive the report on the Rispin property ownership. The motion carried unanimously with the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

- C. Receive information regarding Elected Officials Eligibility in the California Public Employees Retirement System; consider a Resolution allowing or requiring elected officials to pay 100% of their retirement benefit. [630-10/500-10 A/C: Public Employees Retirement – PERS]

Sandy Erickson, 117 Cabrillo Street, stated concerns regarding public employees' double dipping for their retirement.

ACTION No Resolution was approved.

- D. Consideration of authorizing a sole source contract with Ebert Corporation for the construction of the Noble Gulch Pipeline Repair Project at a cost not to exceed \$112,000; authorize budget expenditures of \$120,000 for Fiscal Year 2012-2013. [900-20/500-10 A/C: Ebert Corporation]

ACTION Motion made by Council Member Nicol, and seconded by Council Member Norton, to authorize a sole source contract with Ebert Corporation for the construction of the Noble Gulch Pipeline Repair Project at a cost not to exceed \$112,000; authorize budget expenditures of \$120,000 for Fiscal Year 2012-2013. The motion carried unanimously with the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None

8. CONSENT CALENDAR (continued)

The City Council took separate action on the following action item (Item 8.C.) on the Consent Calendar.

- C. Consideration of adding a Disability Access and Education Fee to the Fiscal Year 2012/2013 Fee Schedule based on Senate Bill No. 1186. [390-40]

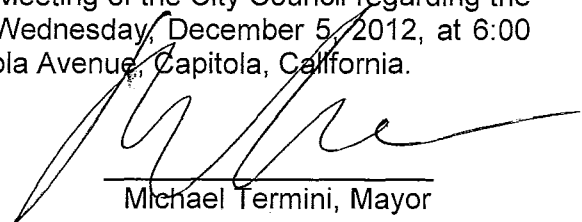
ACTION Motion made by Council Member Nicol, seconded by Council Member Norton, to deny the staff recommendation on this item. The motion carried unanimously with the following vote: **AYES:** Council Members Norton, Nicol, and Mayor Termini. **NOES:** Council Member Storey and Council Member Harlan. **ABSENT:** None. **ABSTAIN:** None

10. COUNCIL/STAFF COMMUNICATIONS (None provided)

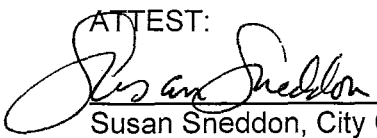
11. CITY COUNCIL/TREASURER COMMENTS/COMMITTEE REPORTS (None provided)

12. ADJOURNMENT

Mayor Termini adjourned at 8:45 p.m. to a Special Meeting of the City Council regarding the Capitola Municipal Election results to be held on Wednesday, December 5, 2012, at 6:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Michael Termini, Mayor

ATTEST:

Susan Sneddon, City Clerk

MINUTES WERE UNANIMOUSLY APPROVED ON FEBRUARY 14, 2013