

**CAPITOLA CITY COUNCIL
REGULAR MEETING ACTION MINUTES
NOVEMBER 8, 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 LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant Exposure to litigation pursuant to subdivision (b) of Govt. Code §549569.9**

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
(Govt. Code §54956.9)**

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].

LIABILITY CLAIMS (Govt. Code §54956.95)

Claimant: David W. Muse
Agency claimed against: City of Capitola

Mayor Termini 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 Harlan, Norton, Storey, and Mayor Termini.

ABSENT: Council Member Nicol.

2. PRESENTATIONS [240-10]

City of Capitola Historical Museum Board Update.

Linda Smith, Museum Board Member, provided an update of the Historical Museum Board and introduced the Board Members.

David Shoaf, Museum Board Member, reported on various services provided by the Board.

Carolyn Swift, Museum Board Chair, gave historical information about the City.

Council Member Norton requested that staff investigate how the City could create an endowment fund that individuals could contribute to so that money could be gifted to the museum.

Mayor Termini stated donations were received, which enabled the Friends of the Arts and Cultural Commission to set up the Cathie Dominguez Art and Cultural Fund.

3. REPORT ON CLOSED SESSION

City Attorney Barisone announced that no reportable action was taken during the special and regular closed session. [520-25]

4. ADDITIONS AND DELETIONS TO AGENDA (none provided)

5. PUBLIC COMMENTS

Brian Peoples, Aptos resident, suggested that the City support using a portion of the railroad property which Santa Cruz County Regional Transportation purchased for a bicycle trail.

Marilyn Garrett, local resident, opposes wireless technology.

6. COUNCIL/STAFF ANNOUNCEMENTS

Mayor Termini suggested that the parking meters be reprogrammed to default to two hours. He requested that any applications for permits for lit signs should be approved by the Planning Commission. He suggested that staff review the City's sign Ordinance. He suggested that the City move away from back-lit panel signs to halo-lit signs. He congratulated Council Member Norton, Council Member Bottorff, and the City Treasurer for being elected to office. He complimented former City Treasurer Jacques Bertrand on how he conducted his campaign in the midst of various problems. He announced that on November 17, 2012 at 11 a.m. there will be a community event at the railway next to Depot Inn to commemorate the new rail corridor. He announced various openings on various City committees and commissions.

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

ALL MATTERS LISTED ON THE REGULAR MEETING OF THE CAPITOLA CITY COUNCIL AGENDA SHALL BE CONSIDERED AS PUBLIC HEARINGS.

8. **CONSENT CALENDAR**

- A. Receive and approve the 2013 Meeting Schedules for the City Council/Successor Agency, and the Planning Commission/Architectural and Site Review Committee. [520-40]
- B. Consideration of a Resolution approving the 2013 City Hall Holiday Closure Schedule.[630-10]

ACTION Motion made by Mayor Termini, and seconded by Council Member Storey, to adopt Resolution No. 3940 approving the 2013 City Hall Holiday Closure Schedule. The motion carried with the following vote: **AYES: Council Members Harlan, Storey, and Mayor Termini. NOES: None. ABSENT: Council Member Nicol. ABSTAIN: Council Member Norton.**

- C. Receive Planning Commission Action Minutes for the Regular Meeting of November 1, 2012. [740-50]

ACTION Motion made by Mayor Termini, and seconded by Council Member Storey, to receive Planning Commission Action Minutes for the Regular Meeting of November 1, 2012. The motion carried unanimously with the following vote: **AYES: Council Members Harlan, Norton, Storey, and Mayor Termini. NOES: None. ABSENT: Council Member Nicol. ABSTAIN: None.**

- D. Consideration of a Resolution approving the reorganization of the member classifications for the Capitola Traffic and Parking Commission. [470-60]

ACTION Motion made by Mayor Termini, seconded by Council Member Storey, to adopt Resolution No. 3941 approving the reorganization of the member classifications for the Capitola Traffic and Parking Commission. The motion carried unanimously with the following vote: **AYES: Council Members Harlan, Norton, Storey, and Mayor Termini. NOES: None. ABSENT: Council Member Nicol. ABSTAIN: None.**

- E. Consideration of a Resolution accepting the Target grant revenue of \$3,000 for the purchase of a Cellebrite forensic extract device and authorize budget expenditures of \$3,000 for Fiscal Year 2012-2013. [330-10/390-25]

ACTION Motion made by Mayor Termini, seconded by Council Member Storey, to adopt Resolution No. 3942 accepting the Target grant revenue of \$3,000 for the purchase of a Cellebrite forensic extract device and authorize budget expenditures of \$3,000 for Fiscal Year 2012-2013. The motion carried with the following vote: **AYES: Council Members Norton, Storey, and Mayor Termini. NOES: Council Member Harlan. ABSENT: Council Member Nicol. ABSTAIN: None.**

- F. Consideration of denying a liability claim of David W. Muse in the amount of \$2,000 and forward it to the City's liability insurance carrier. [Claims Binder]

ACTION Motion made by Mayor Termini, seconded by Council Member Storey, to deny a liability claim of David W. Muse in the amount of \$2,000 and forward it to the City's liability insurance carrier. The motion carried unanimously with the following vote: **AYES: Council Members Norton, Harlan, Storey, and Mayor Termini. NOES: None. ABSENT: Council Member Nicol. ABSTAIN: None.**

9. GENERAL GOVERNMENT/PUBLIC HEARINGS

- A. Receive report on the City's Special Events for 2012. [480-05]

ACTION City Council accepted the report.

- B. Receive report on options regarding additional smoking regulations. [460-70]

ACTION City Council provided staff direction and received the report.

- C. 1760 41ST AVENUE #12-133 APN 034-221-02
Conceptual Review to consider amending City of Capitola Municipal Code Section 17.27 to permit drive-up windows and car service for restaurants in the Community Commercial Zoning District in conjunction with a remodel for the existing McDonald's restaurant. Property Owner: Franchise Realty Interstate Corp, filed: 10/11/12; Representative: McDonalds USA, LLC. [730-10]

Steve Pete, McDonalds franchise owner, requested input from the Council on this proposal.

Lance Cornell, STG Architects, presented the design of the proposed project.

Phillip Cross, Capitola resident, stated that his home is directly behind the McDonald's restaurant, and he opposes this project due to noise created from a drive-thru.

No action is required on this item.

10. COUNCIL/STAFF COMMUNICATIONS

City Manager Goldstein stated that overall the City's revenue picture has improved in the last six month. This improvement has been a results of the City's sales tax figures being up, the transitional occupancy tax amount being higher than anticipated, and the Police Department controlling costs. He stated that the Low-Moderate Income Housing Fund Audit Report was accepted by the Department of Finance. He provided information regarding the United Way's annual Community Assessment Report.

Council Member Harlan suggested installing motion lights and cameras at the Rispin property to curtail graffiti.

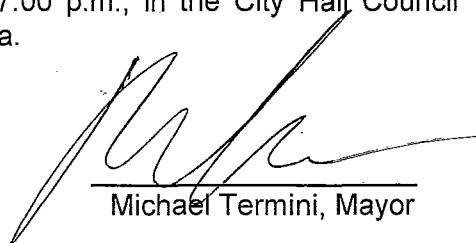
Council Member Storey requested that staff provide a report regarding the status of the Rispin property title. He thanked the citizens for approving Measure O (Permanent City sales tax increase of one-quarter of one percent).

City Manager Goldstein stated that at the December 13, 2012, Council meeting staff will provide a preliminary report on how the Measure O funds can be allocated.

Mayor Termini requested that at the November 20, 2012, Council meeting an item be agendaized to receive information regarding Elected Officials' Eligibility in the California Public Employees Retirement System

11. ADJOURNMENT

Mayor Termini adjourned at 9:11 p.m. to the next Regular Meeting of the City Council to be held on Thursday, November 20, 2012, at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Michael Termini, Mayor

ATTEST:



Susan Sneddon, CMC
Susan Sneddon, City Clerk

MINUTES WERE UNANIMOUSLY APPROVED ON FEBRUARY 14, 2013