

**CITY OF CAPITOLA
CITY COUNCIL**

**August 9, 2012
Capitola, California**

**MINUTES OF A REGULAR MEETING
6:00 P.M. – CLOSED SESSION – CITY MANAGER'S OFFICE**

CALL TO ORDER

Mayor Termini called the meeting to order at 6:00 p.m. Council Members present: Council Member Harlan, Council Member Norton, Council Member Nicol, Council Member Storey, and Mayor Termini. Mayor Termini made an announcement regarding 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 GC §54956.9: Three cases:

1. City of Capitola Insurance Coverage Claim Against Lexington Insurance (Noble Gulch Storm Drain Failure);
2. Pacific Cove Mobile Home Park Pipe Failure and Closure;
3. Consideration of lawsuit against the Department of Finance – Disputed Recognized Obligations of the Successor Agency.

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

1. Kevin Calvert, D.D.S. and Pamela Calvert vs. the City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz, Case #CV 172804];
2. Katie Saldana vs. the 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].

CONFERENCE WITH LABOR NEGOTIATOR (Govt. Code §54957.6)

Negotiator: Jamie Goldstein, City Manager

Employee Organizations: Capitola Police Officers Association; and the Association of Capitola Employees.

Mayor Termini noted that there was no one in the audience; therefore, the City Council recessed at 6:00 p.m. to the Closed Session in the City Manager's Office.

7:00 P.M. – OPEN SESSION

REGULAR MEETING OF THE CAPITOLA CITY COUNCIL

CALL TO ORDER

Mayor Termini called the Regular Meeting of the Capitola City Council to order at 7:00 p.m. on Thursday, August 9, 2012, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

Mayor Termini announced that this meeting is conducted in memory of Cathy Dominguez, a long-time resident of Capitola, who recently passed away.

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

PRESENT: Council Members Stephanie Harlan, Dennis Norton, Kirby Nicol, Sam Storey, and Mayor Michael Termini

ABSENT: None

OTHERS: City Treasurer Jacques Bertrand

STAFF: City Manager Jamie Goldstein, Assistant City Attorney Adair Paterno, Public Works Director Steve Jesberg, Finance Director Tori Hannah, and City Clerk Susan Sneddon

2. PRESENTATIONS

Mayor Termini read the proclamation honoring Patti Wakefield for 22 years of service as the City Hall Receptionist.

3. REPORT ON CLOSED SESSION [520-25]

Assistant City Attorney Paterno stated that the City Council had conference with legal counsel regarding anticipated litigation and received an update on the City of Capitola Insurance Coverage Claim against Lexington Insurance (Noble Gulch Storm Drain Failure); the City Council authorized the City Attorney's office to begin unlawful detainer proceedings against the remaining Pacific Cove Mobile Home Park residents. The City Council received an update regarding the Department of Finance lawsuit. **Assistant City Attorney Paterno** stated that the City Council received an update on existing litigation with no reportable action. The conference with a labor negotiator will be considered in the city Council's Consent Calendar later this evening.

4. ADDITIONS AND DELETIONS TO AGENDA (none provided)

5. PUBLIC COMMENTS

Marilyn Garrett spoke against wireless technology and microwave radiation.

5. PUBLIC COMMENTS (continued)

Carol Lerno, former Pacific Cove Mobile Home Park resident, requested that the City Council continue working on relocating the five remaining residents of the Pacific Cove Mobile Home Park.

6. COUNCIL/STAFF ANNOUNCEMENTS

Council Member Norton requested an update regarding contacting Stephanie Strelow to provide the environmental review for the proposed Single-Use Bag Reduction Ordinance.

City Manager Goldstein responded that Ms. Strelow will be working on the environmental review, which will be brought before Council by the end of this calendar year.

Mayor Termini stated that Santa Cruz GreenWaste Recovery printed peel-and-stick signs for the trash receptacles, stating "Please Drive Slowly".

Council Member Harlan stated that on Sunday, August 12th, the Capitola Begonia Festival kick-off party will be held at Shadowbrook Restaurant.

7. COMMITTEE APPOINTMENTS (None provided)

8. CONSENT CALENDAR

- A. Approve City Council Minutes of the May 31, 2012 Special Joint Study Session of the Capitola City Council and the Successor Agency to the former Redevelopment Agency.
- B. Consideration of awarding a contract to Graham Contractors of San Jose for the construction of the 2012 Capitola Slurry Seal Program in the amount of \$91,674.48 and authorizing the City Manager to sign the contract on behalf of the City. [940-60/500-10 A/C: Graham Contractors]
- C. Consideration of approving the Memorandum of Understanding with the Capitola Police Officers bargaining unit. [600-10]
- D. Consideration of approving an Early Retirement Contract with Patricia Wakefield and authorizing the City Manager to execute the contract. [620-10 Personnel/330-10/500-10 A/C: Wakefield, Patricia]
- E. Consideration of approving a request to proceed with recruitment for a vacancy on the City's Commission on the Environment. [430-05]
- F. Receive Planning Commission Action Minutes for the Regular Meeting of August 2, 2012. [740-50]

8. CONSENT CALENDAR (continued)

G. Adoption of Resolution No. 3930 and Resolution No. 3931 of the City Council of the City of Capitola authorizing submittal to the California Coastal Commission for the certification of an amendment to the Local Coastal Program pertaining to single-room-occupancy parking requirements and emergency shelters. [740-30/730-85/570-10]

ACTION: Motion by Council Member Nicol, seconded by Council Member Storey, to approve the Consent Calendar. The motion was unanimously carried.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS

A. Consideration of a Resolution placing a Visitor Service Fee (Transient Occupancy Tax – TOT) Measure on the November 6, 2012 Presidential General Election ballot to increase the TOT from 10% to a higher figure authorizing certain Council Members to file written arguments for or against the City Measure and filing of rebuttal arguments for the City Measure; and approving a timeline for filing Arguments/Rebuttals for the City Measure. [560-10]

City Manager Goldstein stated that at the July 26, 2012 City Council meeting staff was directed to prepare documents for a ballot measure to increase the City's Transient Occupancy Tax (TOT) from 10% to 12%. He provided an update of similar actions by the City of Santa Cruz and the County of Santa Cruz.

Council Member Nicol made a motion to adopt the proposed Resolution placing a Transient Occupancy Tax Measure on the November 6, 2012 Presidential General Election Ballot to increase the TOT from 10% to a higher figure. The motion died due to lack of a second motion.

Mayor Termini stated if the City approves moving forward with a TOT Measure, and it is approved by the voters, he recommended that 1% of the TOT be split between the Capitola-Soquel Chamber of Commerce and the Santa Cruz County Visitors Center.

Mayor Termini open this item for public comment.

The following urged the City Council to increase the City's TOT to remain consistent with the City and County of Santa Cruz:

Chris Ferrante, Beach Street Inn Co-Owner and the CVC President

Merry Crowen, Santa Cruz Seaside Company Vice President

Maggie Ivy, Santa Cruz County Conference and Visitors' Council CEO

Nels Westman, Capitola resident, provided comments regarding the proposed TOT Ballot Measure.

Mayor Termini closed this item for public comment.

Mayor Termini asked if this item is a reconsideration of the City Council's July 26, 2012 action regarding the a TOT Measure for the November 6, 2012 General Municipal Election

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

City Manager Goldstein responded that the proposed TOT Measure discussed at the July 26, 2012 City Council meeting is de novo because a Resolution had not been drafted.

Motion by **Council Member Norton**, seconded by **Mayor Termini**, to (1) Adopt a Resolution authorizing a ballot measure be placed on the November 6, 2012 Consolidated General Presidential Election Ballot to increase the Transient Occupancy Tax from 10% to 11%. The motion failed on the following vote: AYES: Council Member Norton and Mayor Termini. NOES: Council Member Harlan, Nicol, and Storey. None. ABSENT: None. ABSTAIN: None.

Motion by **Council Member Nicol** to approve a Resolution amending the submission to the qualified electors of the City by adding a question of a certain Ballot Measure to increase the City's Transient Occupancy Tax rate of 10% to 12% at the General Municipal Election on November 6, 2012. The motion died for lack of a second.

B. Discussion regarding Lower Pacific Cove Parking Lot Project financing and project description. [265-10/330-10]

Public Works Director Jesberg stated that additional material was provided to the City Council regarding the lower Pacific Cove parking lot and the proposed upper Pacific Cove parking structure. At the July 26, 2012 City Council meeting there was a discussion regarding the construction of a 220-space surface parking lot on the lower Pacific Cove property as a short-term use and directed staff to return with a project description and financing plan. Staff was directed to develop a preliminary financing plan and a construction schedule for the proposed upper Pacific Cove parking structure. The proposed lower Pacific Cove parking lot would be located on approximately 4 acres formerly used for the Pacific Cove Mobilehome Park. He reviewed the following design features:

- Maximum number of parking stalls (estimated between 220 and 250 spaces);
- Pedestrian and vehicle circulation;
- Entrances and exits at both Capitola Avenue and Bay Avenue;
- Low impact development standards needed to address water quality and storm water flow control;
- Landscaping and down-cast lighting and pedestrian facilities;
- Pay-by-space parking fee using the pay stations currently in the village;
- Enhancement of beach shuttle during the summer.

In addition, he reviewed the following optional project components:

- Renovation of the existing restroom facilities;
- Placement of a new or relocation of an existing coach near Capitola Avenue (on the Beulah site) for City storage and office space;
- Landscaping along Monterey Avenue and Bay Avenue;

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

- New pedestrian access to Bay Avenue from upper Pacific Cove parking lot;
- Parking pay stations on the upper Pacific Cove parking lot.

The total construction costs with the optional elements is estimated at \$764,000.

Public Works Director Jesberg stated that the project goal is to construct a parking lot that will be in use up to 5 years, at which time it is anticipated that other uses currently not defined will be developed for the site in all or portions of the parking lot will be removed. In addition, he stated the following optional items for the upper Pacific Cove parking lot:

- 6 pay stations on the upper parking lot;
- Lighting improvements;
- Pedestrian improvements.

Public Works Director Jesberg stated that the pay stations and pedestrian improvements would be dovetailed with the proposed permanent parking structure in the upper Pacific Cove property. The total costs including engineering and permitting would be \$1 million.

Mayor Termini asked if the pedestrian improvements would fall outside the proposed parking structure area.

Public Works Director Jesberg responded in the affirmative. The improvements listed are outside the area of the proposed permanent parking structure.

Mayor Termini asked if the proposed amount for the grading and surfacing (\$257,000) was included in the funds the City borrowed to close the Pacific Cove Mobilehome Park.

Public Works Director Jesberg responded that the funds used to close the Pacific Cove Mobilehome Park do not include site improvements; the borrowed City funds are to abandon all the utilities and remove debris.

Mayor Termini asked if relocating the coach would be for Police property storage.

Public Works Director Jesberg responded that it would eliminate paid storage the City currently has on 38th Avenue and would also free the space in the Community Room.

Mayor Termini asked if it would be more efficient to include both the lower parking lot and the proposed permanent parking structure in the upper site in with the civil engineering study.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

Public Works Director Jesberg responded that some savings may be realized. The total cost would be approximately \$50,000 per site for civil engineering.

Mayor Termini asked if the City moves forward with the proposal, could the Council stipulate that all the work will be done by local contractors. He stated that there are local design firms with experience in working with this property.

City Manager Goldstein stated that pursuant to the adopted purchasing guidelines, the City can provide local preferences for local bidders. He stated with professional design contracts there is a different procurement process when the City obtains bids; local professionals with the knowledge and experience of this site would be preferred.

Public Works Director Jesberg stated the estimated debt service for the lower Pacific Cove parking lot is \$30,000 to \$50,000 per year. The estimated revenue from the lower parking lot is approximately \$40,000. He stated that the existing spaces in the upper Pacific Cove parking lot would generate approximately \$250 per space and would reduce down to \$175 per space to = \$40,000. He stated that the recommendations for the lower parking lot are to improve the preliminary project description, to authorize a request for proposal for the engineering and design services, to authorize staff to initiate environmental review, and to approve a Resolution authorizing the advance of funds to pay for preliminary engineering costs up to \$75,000. The adoption of the proposed Resolution will allow the City to recapture that cost as part of any debt the City issues for the project in the future.

Public Works Director Jesberg stated that the 2011 Capitola Village Parking Structure Design prepared by Watry Design provided two options, keeping the maximum height at level with the existing railroad bed:

- 3 stories (1 subterranean); 554-space structure (320 net new); cost estimated at \$12.8 million;
- 4 stories (2 subterranean); 664-space structure (430 net new); cost estimated at \$18.8 million.

He stated that a peer review was completed by a local construction company, indicating that the City's estimated costs are accurate. Due to site constraints (storage and staging areas) and extensive excavation work, the estimated construction period is 1-year or more. He reviewed the financial report from July 2011 with the estimated total project costs of \$14 million.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

He identified the funding sources with the estimated total project costs of \$14 million, including mitigation and off-site improvements, and he reviewed the annual on-going costs in the amount of \$700,000. He stated the potential funding to offset the General Fund impact is approximately \$725,000. **Public Works Director Jesberg** reviewed that the next steps, which include an estimated cost of \$50,000 for engineering and modifications of General Plan contract to include structure. He requested that the City Council approve the staff recommendations for the Lower Pacific Cove Parking Lot Project and provide direction on the Upper Pacific Cove Parking Structure.

Mayor Termini opened this item for public comment.

Nels Westman, 507 Riverview Drive, commented on both the lower Pacific Cove parking lot and the proposed permanent upper Pacific Cove parking structure.

Mayor Termini closed this item for public comment.

ACTION: Motion by Council Member Nicol, seconded by Mayor Termini, to approve the preliminary project description for the Lower Pacific Cove Parking Lot Project in the amount of \$1 million; to include the pay stations, lighting and pedestrian improvements in the upper Pacific Cove lot; to authorize the release of a request for proposals for engineering and design services; to authorize staff to initiate an environmental review of the proposed project; and approve Resolution No. 3932 authorizing the advance of funds to pay \$75,000 in preliminary project costs prior to receiving debt funding. The motion carried with the following vote: AYES: Council Members Harlan, Nicol, Storey, and Mayor Termini. NOES: Council Member Norton. ABSENT: None. ABSTAIN: None.

C. Consideration of a Resolution adopting the Fiscal Year 2012/2013 through the Fiscal Year 2016/2017 City of Capitola Capital Improvement Program, and directing the finance department to enter the Fiscal Year 2012/2013 funding into the current fiscal year budget. [330-20/330-10]

Public Works Director Jesberg introduced this item. He provided an overview of Capital Improvement Program (CIP) projects completed in Fiscal Year 2011/2012 and ongoing in Fiscal Year 2012/2013. As part of the Fiscal Year 2012/2013 Budget adoption the City Council appropriated \$22,500 for the CIP. He stated that staff is recommending a budget amendment to the CIP appropriating \$208,000 of undesignated CIP fund balance from the utility undergrounding project, of which \$75,000 is recommended to be allocated to the Lower Pacific Cove Parking Project and \$133,000 to the Utility Underground Project. The \$75,000 will need to be repaid to the Utility Underground Project when final financing of the parking lot project is secured.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

ACTION: Motion by Council Member Norton, seconded by Council Member Harlan, to adopt Resolution No. 3933 adopting the Fiscal Year 2012/2013 Budget through the Fiscal Year 2016/2017 City of Capitola Capital Improvement Program and directing the finance department to enter the Fiscal Year 2012/2013 funding into the current fiscal year budget. The motion carried unanimously with the following vote: **AYES:** Council Members Harlan, Nicol, Norton, Storey, and Mayor Termini. **NOES:** None. **ABSENT:** None. **ABSTAIN:** None.

D. Consideration of an amendment to Section 12.56.090 (Right-of-way obstructions) of the Capitola Municipal Code pertaining to the removal of items from public property [1st Reading]. [485-70]

Public Works Director Jesberg introduced this item. He stated that staff is recommending an amendment to the City's Municipal Code that allows Public Works' staff to remove any obstructions or illegal encroachments in the public right-of-way. He stated that the City Attorney also suggested that as part of this process the City should add clear language and authority for illegal items to be removed from both public properties.

Mayor Termini opened the public hearing.

There was no public comment.

Mayor Termini closed the public hearing.

ACTION: Motion by Council Member Nicol, seconded by Council Member Storey, introducing an Ordinance amending Section 12.56.090 (Right-of-way obstructions) of the Capitola Municipal Code pertaining to the removal of items from public property [1st Reading]. The motion carried unanimously with the following vote: **AYES:** Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. **NOES:** None. **ABSENT:** None. **ABSTAIN:** None.

10. COUNCIL/STAFF COMMUNICATIONS

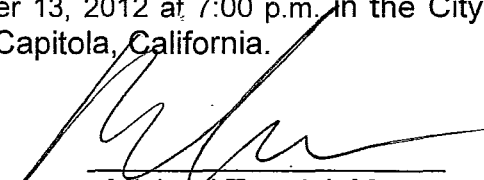
Council Member Nicol requested an update on street improvements from Clare's Street and 41st Avenue.

Police Chief Escalante provided a brief report on monitoring the intersection at Clare's Street and 41st Avenue.

Council Member Harlan reported that she attended a community meeting held by Supervisor Leopold regarding the Target signs.

11. ADJOURNMENT

Mayor Termini adjourned at 9:20 p.m. to the next Regular Meeting of the City Council to be held on Thursday, September 13, 2012 at 7:00 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 NOVEMBER 20, 2012