

CITY OF CAPITOLA
CITY COUNCIL

July 26, 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 REAL PROPERTY NEGOTIATOR (Govt. Code §54956.8)

Property: Pacific Cove Property, 426 Capitola Avenue [APN 035-141-33]

Agency/City Negotiator: Steven Jesberg, Public Works Director

Negotiating parties: Bill and Joyce Budisch (520 Pilgrim Drive)

Under Negotiation: Resolution of property line encroachment

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; Association of Capitola Employees; and Capitola Police Captains.

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, July 26, 2012, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

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, and General Plan Coordinator Susan Westman

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

2. PRESENTATIONS:

Presentation by the Police Chief regarding Nixle, a new Community Information Service designed to deliver important and timely information to residents; and the City of Capitola Police Department Facebook site. [480-05]

Police Chief Escalante stated that Nixle is a new community information service developed to connect residents with safety agencies in order for the public to receive information ranging from critical alerts to community news. He reviewed the various options to receive information.

3. REPORT ON CLOSED SESSION [520-25]

Assistant City Attorney Paterno stated that the items the City Council discussed in Closed Session are the items listed on the July 26, 2012, Closed Session Agenda. The Council conferred with its real property negotiator regarding a portion of the Pacific Cove property. The only action that Council took regarding the anticipated litigation items listed was that the Council authorized the City Manager to negotiate for an additional week with the remaining tenants at Pacific Cove Mobile Home Park to vacate the premises; if the City Manager is unable to come to an agreement with those tenants he is authorized to file unlawful detainer actions against the remaining tenants.

Assistant City Attorney Paterno stated that the City Council conferred with its labor negotiator with no reportable action.

4. ADDITIONS AND DELETIONS TO AGENDA

Mayor Termini requested to move Item No. 9.B. ahead of Item No. 9.A.

5. PUBLIC COMMENTS

Marilyn Garrett spoke against wireless technology and microwave radiation.

Bruce Stanton, Mobile Home Attorney, stated that the City's mobile home ordinance has last resort benefits which state that the City is authorized to order the park owner to pay money if there is no possible relocation for the tenants. He spoke on behalf of the following residents of Pacific Cove Mobile Home Park:

- **Ann Schroedel, Space 76**
- **Christopher Flynn, Space 40**
- **Tracy Conklin, Space 66**
- **Brad and Cathy Sutton, Space 82**

Ann Schroedel, Space 76, stated that the City offered her \$7,300 to purchase her mobile home. She appealed the City's offer, and the City never provided a copy of the appraisal. She stated the City only offered her the salvage value for her mobile home, not the value with all the upgrades.

The following Pacific Cove Mobile Home Park residents requested a reasonable settlement with the City for the purchase of their mobile homes:

- **Christopher Flynn, Space 40**
- **Shawn Miller, Space 66**
- **Carol Lerno, Space 56**

Marilyn Garrett spoke against wireless microwave radiation.

6. COUNCIL/STAFF ANNOUNCEMENTS

Council Member Harlan stated that on the July 25th she attended Second Harvest Food Bank 40th birthday event. She also attended the grand opening of the Monterey Bay Marine Sanctuary Exploration Center.

Mayor Termini stated that he attended the 40th Annual Wharf to Wharf Race, noting that Council Member Nicol will be retiring as the Wharf to Wharf Director. The Mayor received two letters of praise complementing City Detective Sarah Ryan and Officer Guillermo Vazquez regarding their assistance in getting a gentleman's wallet back that had been stolen from a local drug store. He stated that someone from the community complimented the services provided by Building Inspector Mark Wheeler. He stated that he attended two Target grand openings when Target gave out the following grants: \$1,000 to the City's Police Department; \$2,000 to a local art center; \$4,000 to a local elementary school; and \$3,000 to the Wharf to Wharf Race.

7. COMMITTEE APPOINTMENTS

A. Appointment to Capitola Historical Museum Board. [240-40]

Mayor Termini stated that this item is to accept the recommendation of the Capitola Historical Museum Board to appoint Stephanie Kirby to fill the vacancy on the Capitola Historical Museum Board.

ACTION: Motion by Council Member Norton, seconded by Council Member Storey, to approve the Capitola Historical Museum Board recommendation and appoint Stephanie Kirby to fill a vacancy on the Capitola Historical Museum Board with a term ending June 2015. The motion unanimously carried on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

8. CONSENT CALENDAR

Council Member Norton requested that Item 8.D. be removed from the Consent Calendar for discussion.

Council Member Harlan requested that Item 8.E. be removed from the Consent Calendar for discussion.

Council Member Harlan requested that the Police Chief comment on Item No. 8.G. regarding the type of police protective equipment he intends to purchase for the Police Department.

Police Chief Escalante responded that at the time the staff report for this item was prepared, staff had not specifically identified what equipment or project the City would purchase. He stated that at this time staff is recommending that the funds go towards identifying police radio repeater locations and the purchase of additional repeaters.

- A. Approval of the City Council Minutes of the Regular Meeting of May 24, 2012.
- B. Adoption of Resolution No. 3927 to accept grant revenue of \$1,000 for the 2012 Target National Night Out and authorize budget expenditures of \$1,000 for Fiscal Year 2012-2013. [330-10]
- C. Approval of the City Check Register Reports dated June 22, 2012, June 29, 2012, July 6, 2012, and July 13, 2012. [300-10]
- D. Consideration of an amendment to Title 3 Section 16 of the Capitola Municipal Code pertaining to Purchasing and Purchasing Contracts [2nd Reading] and amending related Financial Management Policies. [100-10]

8. CONSENT CALENDAR (continued)

- E. Consideration of an Ordinance amending Section 17.57.040(D) of the Municipal Code pertaining to Prohibited Signs and adding Sections 17.57.020(B)(4) and 17.57.060(F) pertaining to the Use of Sidewalk Signs in the Central Village Zoning District [2nd Reading]; adopt a Resolution authorizing submittal of a Local Coastal Plan Amendment. [740-30/730-85/720-50/570-10]
- F. Approval of the list of contractors for removal of coaches from the Pacific Cove Mobile Home Park. [260-10]
- G. Adoption of Resolution No. 3929 accepting a Homeland Security Grant in the amount of \$5,842 and amending the Fiscal Year 2012-2013 General Fund Operating Budget by increasing both revenues and expenditures by \$5,842. [330-10]
- H. Consideration of the proposed revised language of the “Argument in Favor” of a Permanent Quarter Cent Sales Tax Measure to be printed on the ballot for the November 6, 2012 Election. [560-10]

ACTION: Motion by Council Member Harlan, seconded by Council Member Storey, to approve the following items on the Consent Calendar: 8(A), 8(B), 8(C), 8(F), 8(G) and 8(H). The motion carried unanimously on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

Mayor Termini asked if the City has established limited construction hours for the removal of the coaches from Pacific Cove Mobile Home Park (Item No. 8.F.). (Public Works Director Jesberg stated yes).

9. GENERAL GOVERNMENT/PUBLIC HEARINGS

- B. Consideration of approving a contract for the sale of a portion of City property located at 426 Capitola Avenue to 520 Pilgrim Avenue to correct a building encroachment and authorize the City Manager to execute the contract. [500-10 A/C: Budisch, William and Joyce]

Public Works Director Jesberg provided a brief history regarding this item. He stated that it has recently been discovered that a small portion of the residence located at 520 Pilgrim Avenue was built over the property line. To correct a building encroachment onto City property at 426 Capitola Avenue, staff is recommending negotiating with the property owner to prepare a property line adjustment and to sell that portion of the property (385 feet of property).

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

ACTION: Motion by Council Member Norton, seconded by Council Member Nicol, to approve a contract for the sale of a portion of City property located at 426 Capitola Avenue to 520 Pilgrim Avenue to correct building encroachment and authorize the City Manager to execute the contract. The motion carried unanimously on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

A. Consideration of options for future uses on the former Pacific Cove Mobile Home Park Site. [260-10]

Public Works Director Jesberg introduced this item. He stated that this item is to provide staff direction on the short-term options for uses of the Pacific Cove/City Hall property, and to direct staff to develop plans and financing options. The existing park is scheduled to be closed on July 31, 2012, and any significant project will take 9-12 months to complete. He requested that Council consider any long-term uses of the property to be part of the General Plan Update.

Mr. Jesberg stated that the Pacific Cove and City Hall properties were identified as a special study area for the General Plan update. A public workshop regarding this site was held in May 2012 with consensus of the General Plan Advisory Committee and Traffic and Parking Commission that the City should actively pursue construction of a multi-level parking structure over the existing parking lot. Long-term plans for other uses of the Pacific Cove property should be made and implemented once parking demands have been satisfied elsewhere. He stated benefits in adding parking in the former Pacific Cove Mobile Home Park area would develop an in lieu parking fee to benefit the village and run the beach shuttle. He reviewed the following 3 alternatives for parking for Council to consider.

Alternative 1 (no temporary parking): using split-rail fencing, blocking vehicular traffic, allowing pedestrian access through the property; sealing the restroom building; and deferring future use plans to the General Plan process

Alternative 2 (partial parking): Development of 70-110 parking spaces in western portion of park; eastern portion reserved for other, yet to be determined, uses; \$300,000 - \$415,000 depending on number of spaces; Includes: restroom rehabilitation, pedestrian improvements, water quality improvements, pay stations, shuttle bus stops, landscaping, and lighting.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

Alternate 3 (full parking): Develop lot with approx. 220 parking spaces; cost of approximately \$725,000; includes: restroom rehabilitation, pedestrian improvements, water quality improvements, pay station installation, shuttle bus stops, landscaping, and lighting.

Public Works Director Jesberg reviewed the 2012 potential project timeline and stated that the City could refinance existing debt for relocation costs as tax-exempt at a lower interest rate.

City Council discussion ensued regarding the 3 alternatives for parking.

Mayor Termini open this item for public comment.

Shawn Miller, Pacific Cove Mobile Home Park, Space 66, stated concerns about the possibility of the Noble Gulch pipe failing again in the future.

Ann Schroedel Pacific Cove Mobile Home Park, Space 76, stated concerns regarding the restroom facilities in the mobile home park.

Nels Westman, 507 Riverview Drive, stated concerns regarding the proposed future uses of the former Pacific Cove Mobile Home Park Site.

Zane Westman, provided additional concerns regarding the proposed future uses of the former Pacific Cove Mobile Home Park Site.

The following Traffic and Parking Commissioners provided support for the proposed lower Pacific Cove temporary parking lot:

- **Ed Bottorff**
- **Margaret Kinstler**
- **Linda Hanson**

Mayor Termini closed this item for public comment.

Council Member Norton suggested keeping the budget for the proposed lower Pacific Cove temporary parking at a minimum. He stated that the parking is only temporary until the proposed upper Pacific Cove parking garage is built.

Council Member Storey stated concerns regarding any potential Coastal Commission constraints. He requested that staff investigate options to increase the parking in the village and neighborhoods.

Council Member Nicol stated that he has never seen all the parking slots in the upper lot full. He supports promoting the beach shuttle from the proposed lower parking lot.

10. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

Motion by **Council Member Norton** to adopt the proposed Alternate 3, seconded by **Council Member Harlan**. *This motion was overruled by a subsequent substitute motion.*

City Council discussion ensued regarding this item.

ACTION: *Subsequent Motion by Council Member Norton, seconded by Council Member Harlan, to approve the following: (1) Council shall determine the upper Pacific Cove's proposed building of a three-story parking garage to be the priority project in the City; (2) Direct staff to initiate an actual cost study, to find funding for the parking garage so that the garage can be built as funds are provided; (3) Move forward with Alternative No. 3 as proposed in the staff report and initiate the design process for the temporary lower Pacific Cove parking lot to accommodate the maximum number of parking spaces with a limited budget of \$500,000 and for Public Works staff to lay out what can be included. The motion carried unanimously on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.*

Mayor Termini called for a five-minute recess.

C. Consideration of a Visitor Service Fee (Transient Occupancy Tax – TOT) Measure for the November 6, 2012, General Municipal Election. [560-10]

City Manager Goldstein provided a brief history of the City's current Transient Occupancy Tax (10%). He stated that over the past several months the City Council has held hearings to discuss a potential TOT ballot measure for the City's November 2012 General Municipal Election. At the June 28, 2012 City Council meeting staff was directed to continue this item to allow time for other local jurisdictions to make decisions about their potential ballot language and to consider a potential City ballot measure to be coordinated with a regional effort. He stated that the City of Santa Cruz and the Santa Cruz County Lodging Association are requesting that the City place a 1% TOT General Tax Measure and authorize an increase in the Regional Transit Marketing District (TMD) rate of 1% to offset a decrease in City funding to Santa Cruz County Visitors Center (CVC). The City of Santa Cruz has been directed to follow what the County of Santa Cruz does regarding a proposed TOT increase.

Mayor Termini open this item for public comment.

Maggie Ivy, Santa Cruz County Conference and Visitors Council (CVC) Chief Executive Officer, provide a summary of recent discussions between the Santa Cruz County Lodging Association, the CVC, and various local jurisdictions regarding a regional TOT increase.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

Dan Aspromonte, Best Western and Marriott Fairfield Inn, provided his support for a TOT increase to go towards the TMD.

Mayor Termini closed this item for public comment.

City Council discussion ensued regarding this item.

Mayor Termini stated if the City approves moving forward with a TOT Measure he supports continued funding to the Capitola-Soquel Chamber of Commerce. He recommended that 1% of the TOT be split between the Capitola-Soquel Chamber of Commerce and the CVC.

ACTION: Motion by Council Member Nicol, seconded by Council Member Norton, to consider a Visitor Service Fee (Transient Occupancy Tax – TOT) Measure for the November 6, 2012 General Municipal Election. The motion carried on the following vote: AYES: Council Members Norton, Nicol, and Mayor Termini. NOES: Council Members Harlan and Storey. ABSENT: None. ABSTAIN: None.

CITY COUNCIL TOOK SEPARATE ACTION ON CONSENT CALENDAR ITEM NO. 8.D. AND ITEM NO. 8.E.

- D. Consideration of an amendment to Title 3 Section 16 of the Capitola Municipal Code pertaining to Purchasing and Purchasing Contracts [2nd Reading] and amending related Financial Management Policies. [100-10]

Council Member Norton requested information regarding the City's credit card use.

Finance Director Hannah introduced this item. She provided an update on the revised City Credit Card Purchasing Program Policy.

ACTION: Motion by Council Member Harlan, seconded by Council Member Norton, to adopt Ordinance No. 972 amending Title 3 Section 16 of the Capitola Municipal Code pertaining to Purchasing and Purchasing Contracts [2nd Reading] and amending related Financial Management Policies. The motion carried unanimously on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

- E. Consideration of an Ordinance amending Section 17.57.040(D) of the Municipal Code pertaining to Prohibited Signs and adding Sections 17.57.020(B)(4) and 17.57.060(F) pertaining to the Use of Sidewalk Signs in the Central Village Zoning District [2nd Reading]; adopt a Resolution authorizing submittal of an Local Coastal Plan Amendment. [740-30/720 – 50/570-10]

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

Council Member Norton asked if this item should be under General Government instead of the Consent Calendar, since changes were made in the draft ordinance when it was introduced at the last City Council meeting.

General Plan Coordinator Westman stated the City has consistently brought second reading of ordinances as a Consent Calendar item even if there were changes made to the wording of the draft ordinance during the Council's public hearing.

ACTION: Motion by Council Member Norton, seconded by Council Member Storey, to adopt Ordinance No. 973 amending Section 17.57.040(D) of the Municipal Code pertaining to Prohibited Signs and adding Sections 17.57.020(B)(4) and 17.57.060(F) pertaining to the Use of Sidewalk Signs in the Central Village Zoning District [2nd Reading]; and adopt Resolution No. 3928 authorizing submittal of a Local Coastal Plan Amendment. The motion carried unanimously on the following vote: AYES: Council Members Norton, Nicol, and Storey. NOES: Council Member Harlan and Mayor Termini. ABSENT: None. ABSTAIN: None.

10. COUNCIL/STAFF COMMUNICATIONS

General Plan Coordinator Westman provided an update regarding illegal signs in the village. She proposed drafting a letter to provide local businesses with the City's banner permitting process, and she also will inform the merchants that the City plans to reinstate the City's Sign Enforcement Program in October 2012.

Council Member Nicol stated concerns regarding blinking, lighted window signs in local businesses.

General Plan Coordinator Westman stated that merchants are allowed to place lighted signs inside their window as long as it does not cover up more than one-third of the window.

Council Member Harlan stated that the village is in its peak business season and asked if the village sidewalks could be steam-cleaned.

Public Works Director Jesberg stated that the next street cleaning is scheduled for Aug 14th.

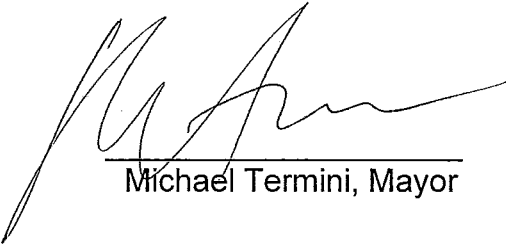
City Manager Goldstein stated that staff plans to present Council with a proposal to enhance village maintenance.

11. ADJOURNMENT

Mayor Termini adjourned at 9:58 p.m. to the next Regular Meeting of the City Council to be held on Thursday, May 10, 2012, at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

ATTEST:


_____, CMC
Susan Sneddon, City Clerk



Michael Termini, Mayor

MINUTES WERE UNANIMOUSLY APPROVED ON OCTOBER 25, 2012