

**CITY OF CAPITOLA
CITY COUNCIL**July 12, 2012
Capitola, California**MINUTES OF A REGULAR MEETING
5:30 P.M. — CLOSED SESSION — CITY MANAGER'S OFFICE****CALL TO ORDER**

Mayor Termini called the meeting to order at 5:30 p.m. Council Members present: Council Member Harlan, Council Member Nicol, Council Member Norton, 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: Five cases:

1. California State Department of Finance regarding Redevelopment Agency.
2. City of Capitola Insurance Coverage Claim Against Lexington Insurance (Noble Gulch Storm Drain Failure);
3. Pacific Cove Mobile Home Park Pipe Failure and Closure;
4. Consideration of lawsuit against the Department of Finance – Disputed Recognized Obligations of the Successor Agency;
5. Threatened Litigation. Save the Plastic Bag Coalition v. City of Capitola.

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)

1. Negotiator: Jamie Goldstein, City Manager
2. Employee Organizations: Capitola Police Officers Association.

LIABILITY CLAIMS (Govt. Code §54956.95)

Claimant: Brad and Cathy Sutton
Agency claimed against: City of Capitola

Mayor Termini noted that there was no one in the audience; therefore, the City Council recessed at 5:30 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 12, 2012, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

1. ROLL CALL AND PLEDGE OF ALLEGIANCE:

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

ABSENT: None

OTHERS: City Treasurer Jacques Bertrand

STAFF: City Manager Jamie Goldstein, City Attorney John Barisone, Public Works Director Steve Jesberg, Finance Director Tori Hannah, General Plan Coordinator Susan Westman, Police Chief Escalante, and City Clerk Susan Sneddon

2. PRESENTATIONS:

Clay Kempf, Executive Director of Seniors Council of Santa Cruz & San Benito Counties, presenting top findings from the recent Senior Needs Assessment Report.

3. REPORT ON CLOSED SESSION [520-25]

City Attorney Barisone stated that items the City Council discussed in Closed Session are the items listed on the July 12, 2012, Closed Session Agenda. He stated that there were five anticipated litigation items. City Manager Goldstein provided a report regarding the California State Department of Finance about the City's Redevelopment Agency and its obligations; there was no reportable action in closed session. City Manager Goldstein provided a report on the Capitola insurance coverage claim against Lexington Insurance; that case has been removed by Lexington Insurance from the Santa Cruz County Superior Court to the Federal District Court in San Jose. The City is expecting an answer in the near term. **City Attorney Barisone** stated that City Manager Goldstein, City Attorney Barisone, and Special Counsel Vince Hurley provided a status report regarding the City's anticipated litigation issues surrounding the Pacific Cove pipe failure. Council received an update from the City Attorney and the City Manager regarding a threat of litigation from the Save the Plastic Bag Coalition versus the City of Capitola, in connection with the proposed Ordinance on tonight's City Council agenda. The Council discussed with Special Counsel Vince Hurley all the existing litigation between the City and various property owners relative to property damage sustained in the March 2011 pipe failure.

3. REPORT ON CLOSED SESSION (Continued)

In connection to litigation, the Council heard about the tort claim of Brad and Cathy Sutton; no action was taken in closed session. Council received a report from Administrative Service Director Murphy and City Manager Goldstein regarding ongoing labor negotiations with the Capitola Police Officers Association; Council provided direction regarding the ongoing negotiations.

4. ADDITIONS AND DELETIONS TO AGENDA

Mayor Termini requested that Item 9.E. be discussed after Item 9.A.

Public Works Director Jesberg requested that Item No. 8.H. be continued at the July 26, 2012, City Council meeting.

ACTION: Motion by Council Member Norton, seconded by Council Member Storey, to continue Item No. 8.H. regarding the approval of a list of contractors for removal of coaches from the Pacific Cove Mobile Home Park. The motion carried on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

5. PUBLIC COMMENTS

Anna Marie Gotti, Capitola resident, requested that the City Council support her efforts to bring women's self defense classes to the City.

Carin Hanna, Capitola Traffic & Parking Commission, provided input regarding the proposed Pacific Cove parking area, specifically the meter revenue charge.

Sandy Erickson, Capitola resident, provided comments suggesting signage for the proposed Pacific Cove parking lot, increased signage regarding the leash requirement for dogs on the beach, and increased no smoking signage in the village.

Marilyn Garrett spoke against wireless technologies.

Jim Astrosky stated that PG&E is violating customer trust regarding SmartMeter installation.

Marge Hanson, River Terrace Neighbor, stated concerns regarding dogs off leash in her neighborhood.

Ed Bottorff, Capitola Traffic & Parking Commission, reported the Commission's input regarding the proposed Pacific Cove parking area.

5. PUBLIC COMMENTS (continued)

Nels Westman, 507 Riverview Drive, provided input regarding the proposed Pacific Cove parking area.

6. COUNCIL/STAFF ANNOUNCEMENTS

Council Member Harlan, stated that the Capitola Mall Farmer's Market hours are every Thursday from 3:30 p.m. to 7:00 p.m.

Council Member Storey stated concerns regarding a skateboard notice stuck to a street sign on East Cliff Drive. He requested that Police Chief Escalante report to the City Council at a future meeting on the number of citations given out violating the Skateboard Ordinance.

Council Member Nicol stated that there continues to be a problem with graffiti not being removed from the Rispin property.

7. COMMITTEE APPOINTMENTS (None provided)

8. CONSENT CALENDAR

Council Member Norton requested that Item No. 8.E. and Item No. 8.G be pulled for further discussion.

- A. Approval of the City Council Minutes of the May 23, 2012, Special Joint Study Session of the Capitola City Council and the Successor Agency to the former Redevelopment Agency.
- B. Approval of denying the liability claim of Brad and Cathy Sutton in the amount of \$59,000 and forwarding it to the City's liability insurance carrier. [Claims Binder]
- C. Receiving of Planning Commission Action Minutes for the Regular Meeting of July 5, 2012. [740-50]
- D. Approval of the Biennial review of the City of Capitola Conflict of Interest Code. [570-20]
- E. Consideration of approving an agreement with Susan Westman for the position of General Plan Coordinator; authorize the City Manager to execute the agreement. [500-10 A/C: Westman, Susan]
- F. Approval of the second amendment to the Agreement for City Attorney Services with Atchison, Barisone, Condotti & Kovacevich in the amount of \$133,560; authorize the City Manager to execute the agreement. [570-05/500-10 A/C: Atchison, Barisone, Condotti & Kovacevich]

8. CONSENT CALENDAR (Continued)
- G. Consideration of approving a contract with Carolyn Flynn for professional services related to Community Development Block Grant (CDBG) Program administration for an amount not to exceed \$24,050; authorize the City Manager to execute the contract; and implementation of the City's Community Development Grants and assistance with the General Plan Update. [500-10 A/C: Flynn, Carolyn]
- H. Consideration of approving the list of contractors for removal of coaches from the Pacific Cove Mobile Home Park [260-10] *(to be continued at the July 26, 2012, City Council meeting)*.

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

9. GENERAL GOVERNMENT/PUBLIC HEARINGS

- A. Consideration of an amendment to Section 17.57.040(D) of the Capitola Municipal Code pertaining to prohibited signs [1st reading]. [730-85/720-50/570-10]

General Plan Coordinator Westman provided a brief history of this item. She stated that the Capitola Village and Wharf Business Improvement Area completed a proposed sign design, and the Planning Commission recommended that the Ordinance not be amended to allow sandwich boards at their June 7, 2012, meeting. She reviewed the major changes to the draft Sidewalk Sign Ordinance since February 2012. She stated that staff recommends upholding the Planning Commission recommendation to not amend the Zoning Ordinance at this time but have this discussion take place as part of the General Plan Update and the development of a new Zoning Ordinance, and to encourage the use of projecting signs which are currently allowed.

Mayor Termini opened this item for public comment.

The following provided support for the proposed Sign Ordinance:

Carl Hyman, local business owner

Ed Bottorff, Capitola Traffic & Parking Commissioner

Gary Wetsel, Capitola Village and Wharf Business Improvement Area member

Lavigne Michael, Capitola Real Estate Broker

Carin Hanna, local business owner

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

The following stated opposition to the proposed Sign Ordinance:

Mary Healy, 2192 Francesco Circle
Sandy Erickson, 117 Cabrillo Street
Christine Gomez, business owner

Mayor Termini closed this item for public comment.

Council Member Nicol provided support for the proposed Ordinance, which would allow sandwich board signs for a one-year trial period.

Council Member Storey recommended allowing sandwich board signs for a one-year trial period. He does not support the A-frame signs.

Council Member Harlan stated that she is not in favor of the proposed Ordinance because it adds more clutter in the village.

ACTION: Motion by Council Member Norton, seconded by Council Member Nicol, to approve the introduction of an Ordinance amendment to Section 17.57.040(D) of the Capitola Municipal Code pertaining to prohibited signs. The sidewalk signs shall be spaced a minimum of 30 linear feet from all other permitted sidewalk signs; individual signs may advertise more than one business; and permits for sidewalk signs can be issued by the Community Development Director. The motion carried on the following vote: AYES: Council Members Norton, Nicol, and Storey. NOES: Council Member Harlan and Mayor Termini. ABSENT: None. ABSTAIN: None.

General Plan Coordinator Westman requested direction from the City Council regarding the illegal existing A-frame signs in the village.

There was City Council consensus to enforce the current Sign Ordinance.

Mayor Termini requested that when staff prepares the final Ordinance for the Coastal Commission to include when the confiscation of A-frame signs goes into effect. (**General Plan Coordinator Westman** agreed).

As requested by **Mayor Termini**, **Item 9.E.** is to be discussed next.

- E. Consideration of an Ordinance adding Section 8.07 (Single-use Plastic and Paper Carryout Bag Reduction) of the Capitola Municipal Code pertaining to the reduction of single-use plastic and paper carryout bags [1st reading]. [930-30]**

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

Administrative Services Director Murphy provided an up-to-date summary of local jurisdiction actions regarding the reduction of single-use plastic and paper carryout bags.

Mayor Termini opened this item for public comment.

Richard Wieckowicz, Aptos resident, provided a handout to Council and stated that banning plastic bags would cause more environmental damage.

Mayor Termini closed this item for public comment.

Council Member Harlan suggested that this item be continued until a negative declaration on the subject is completed.

Council Member Storey stated the City should encourage the public to use re-usable products. He suggested that staff find out if the proposed Ordinance is exempt from CEQA requirements and if it is subject to a negative declaration.

ACTION: Motion by Council Member Storey, seconded by Council Member Harlan, to complete a negative declaration and to continue this item to a future City Council meeting. The motion carried unanimously on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

B. Consideration of an “Argument in Favor” of a Permanent Quarter Cent Sales Tax Measure to be printed in the ballot for the November 6, 2012 Election. [560-10]

Mayor Termini introduced this item.

Council Member Nicol states that he does not agree with a sentence in the following proposed Argument in Favor of the Permanent Quarter Cent Sales Tax Measure: “During the last 5 years the City of Capitola has experienced a severe fiscal decline due to loss of revenues.” He stated that over the past 10 years the City’s revenues have gone up 17%, but the City’s payroll expenses have gone up 36%. He suggested modifications to the statement so that the public is not given the idea that the City’s fiscal discomfort is a function of the cost of living; it is really a function of the City’s payroll expense that has increased.

There was Council consensus to remove a sentence from the proposed Argument stating that the City experienced severe fiscal decline due to loss of revenue; and to remove the reference to Public Works, administrative and police staffing being reduced.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

There was Council consensus to add a sentence to the proposed Argument stating that the March 2011 floods depleted the City's emergency reserves to a dangerous level; during the last 5 years the City has experienced unprecedented fiscal challenges.

Mayor Termini opened this item for public comment.

Sandy Erickson, Capitola resident, stated why the Permanent Quarter-Cent Sales Tax Measure should not be on the November 2012 ballot.

Mayor Termini closed this item for public comment.

ACTION: Motion by Council Member Nicol, seconded by Mayor Termini, to approve Argument in Favor of a Permanent Quarter-Cent Sales Tax Measure to be printed in the ballot for the November 6, 2012, Election. The motion carried unanimously on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

C. Consideration of a Resolution re-designating the Santa Cruz County Regional Transportation Commission (RTC) as the Congestion Management Agency (CMA) for Santa Cruz County. [770-05]

Public Works Director Jesberg introduced this item. Staff recommendation is to draft a Resolution re-designating the Santa Cruz County Regional Transportation Commission as the Congestion Management Agency (CMA) for Santa Cruz County pursuant to California Government Code.

George Dondero, Santa Cruz County Regional Transportation Commission, stated that these funds would provide a stable source of funds to local agencies that would be dedicated to maintain roadways and improve safety for pedestrians and school children.

Mayor Termini opened this item to the public.

No public comments.

Mayor Termini closed this item to the public.

ACTION: Motion by Council Member Nicol, seconded by Council Member Storey, to adopt Resolution No. 3925 re-designating the Santa Cruz County Regional Transportation Commission (RTC) as the Congestion Management Agency (CMA) for Santa Cruz County. The motion carried unanimously on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

- D. Consideration of a Resolution electing to become subject to the Uniform Construction Cost Accounting Act Procedures (alternative bidding procedures), and introducing an Ordinance amending Title 3 Section 16 of the Capitola Municipal Code pertaining to Purchasing and Purchasing contracts [1st reading]. [100-10]

Finance Director Hannah introduced this item. She stated that staff is recommending that Council adopt alternative bidding procedures that would allow the City to increase the purchasing thresholds with staff requesting City Council to approve items exceeding \$25,000, and the City Manager would be authorized to approve items up to \$25,000. The proposed changes to the purchasing system would involve Council earlier in the formal bid process for items above \$25,000. The request for proposal or bid documents would be provided to Council in advance so that the documents could be viewed prior to the City entering into a contract or obtaining proposals; the City Manager would be authorized to award the bid. Staff would also like Council to consider providing the City Manager with the authority to enter into contracts for single, capital equipment purchases between \$25,001 and \$50,000 to allow for expedient processing of equipment that would typically contain standard bid specifications. These items would be clearly identified in future budget documents for transparency purposes and controlled at the line item level. If there were any changes to the item description or the budgeted amount, Council approval would be required.

Mayor Termini opened this item for public comment.

No public comment

Mayor Termini closed this item for public comment.

ACTION: Motion by Council Member Nicol, seconded by Council Member Harlan, to adopt Resolution No. 3926 electing to become subject to the Uniform Construction Cost Accounting Act Procedures (alternative bidding procedures, and approval of the first reading of an Ordinance amending Title 3 Section 16 of the Capitola Municipal Code pertaining to Purchasing and Purchasing contracts. The motion carried unanimously on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

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

- E. Consideration of approving an agreement with Susan Westman for the position of General Plan Coordinator; authorize the City Manager to execute the agreement. [500-10 A/C: Westman, Susan]

City Manager Goldstein introduced this item.

Council Member Norton suggested changing the work priorities for Susan Westman and Carolyn Flynn to focus more time on updating the City's zoning Ordinance.

General Plan Coordinator Westman responded that both the zoning ordinance revision and the City's General Plan update need to be completed in tandem because they are on parallel tracks; the estimated completion is Fall of 2013.

Council Member Nicol asked for clarification about the status of the interim Community Development Director position.

General Plan Coordinator Westman responded that only her title has changed, and her work will remain the same. She stated that under the new Cal PERS law she can only hold an interim position one-time per year.

City Manager Goldstein stated that staff is searching for funding for Carolyn Flynn's continued work for the City.

ACTION: Motion by Council Member Norton, seconded by Council Member Harlan, to approve an agreement with Susan Westman for the position of General Plan Coordinator; authorize the City Manager to execute the agreement. The motion carried unanimously on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

- G. Consideration of approving a contract with Carolyn Flynn for professional services related to Community Development Block Grant (CDBG) Program administration for an amount not to exceed \$24,050; authorize the City Manager to execute the contract; and implement the City's Community Development Grants and assistance with the General Plan Update. [500-10 A/C: Flynn, Carolyn]

CITY COUNCIL TOOK SEPARATE ACTION ON CONSENT CALENDAR ITEM NO. 8.E.
AND ITEM NO. 8.G. (Continued)

ACTION: Motion by Council Member Norton, seconded by Council Member Harlan, to approve a contract with Carolyn Flynn for professional services related to Community Development Block Grant (CDBG) Program administration for an amount not to exceed \$24,050; authorize the City Manager to execute the contract; and implement the City's Community Development Grants and assistance with the General Plan Update. The motion carried unanimously on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

10. COUNCIL/STAFF COMMUNICATIONS

Police Chief Escalante reported on Police citations issued in 2011 and to-date in 2012.


Council Member Norton requested that City Attorney Barisone and the General Plan Coordinator review the current Inclusionary Housing Ordinance regarding its legality, specifically single-family residences and the required fees.

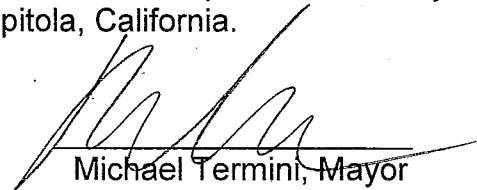
Mayor Termini requested that the Pacific Cove contractors eliminate all work done on Saturdays.

11. ADJOURNMENT

Mayor Termini adjourned at 10:50 p.m. to the next Regular Meeting of the City Council to be held on Thursday, July 26, 2012, at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

ATTEST:


Susan Sneddon, City Clerk CMC


Michael Termini, Mayor

MINUTES WERE UNANIMOUSLY APPROVED ON OCTOBER 11, 2012