

# City of Capitola Agenda



Mayor: Michael Termini  
Vice Mayor: Stephanie Harlan  
Council Members: Kirby Nicol  
Dennis Norton  
Sam Storey  
Treasurer: Jacques Bertrand

## **CAPITOLA CITY COUNCIL REGULAR MEETING THURSDAY, JUNE 14, 2012 CLOSED SESSION – 6:00 PM CITY MANAGER'S OFFICE**

An announcement regarding the items to be discussed in Closed Session will be made in the City Hall Council Chambers prior to the Closed Session. Members of the public may, at this time, address the City Council on closed session items only.

### **CONFERENCE WITH LABOR NEGOTIATOR (Govt. Code §54957.6)**

Negotiator: Jamie Goldstein, City Manager

Employee Organizations: Association of Capitola Employees, Capitola Police Captains, Capitola Police Officers Association, Confidential Employees, Mid-Management Group, and Department Head Group.

Negotiator: John Barisone, City Manager  
City Manager's Contract

### **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to subdivision (b) of GC §54956.9: Two 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. 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].

### **PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code §54957)**

City Council's Performance Evaluation of City Attorney

### **LIABILITY CLAIMS (Govt. Code §54956.95)**

Claimant: Claudia Monjaraz  
Agency claimed against: City of Capitola

**REGULAR MEETING OF THE CAPITOLA CITY COUNCIL – 7:00 PM****1. ROLL CALL AND PLEDGE OF ALLEGIANCE**

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

**2. PRESENTATIONS**

**A. Proclamation honoring Amateur Radio Week - June 17 thru June 24, 2012.**

**3. REPORT ON CLOSED SESSION****4. ADDITIONS AND DELETIONS TO AGENDA****5. PUBLIC COMMENTS**

*Oral Communications allows time for members of the Public to address the City Council on any item not on the Agenda. Presentations will be limited to three minutes per speaker. Individuals may not speak more than once during Oral Communications. All speakers must address the entire legislative body and will not be permitted to engage in dialogue. All speakers are requested to print their name on the sign-in sheet located at the podium so that their name may be accurately recorded in the minutes. A MAXIMUM of 30 MINUTES is set aside for Oral Communications at this time.*

**6. COUNCIL/STAFF ANNOUNCEMENTS****7. COMMITTEE APPOINTMENTS**

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

**8. CONSENT CALENDAR**

*All items listed in the "Consent Calendar" will be enacted by one motion in the form listed below. There will be no separate discussion on these items prior to the time the Council votes on the action unless members of the public or the City Council request specific items to be discussed for separate review. Items pulled for separate discussion will be considered following General Government.*

*Note that all Ordinances and Resolutions which appear on the public agenda shall be determined to have been read by title and further reading waived.*

A. Consideration of denying a liability claim of Claudia Monjaraz in the amount of \$720.00 and forward to the City's liability insurance carrier.

RECOMMENDED ACTION: Deny Liability Claim.

B. Approve City Council Minutes of the Regular Meeting of April 26, 2012.

RECOMMENDED ACTION: Approve Minutes.

## 8. CONSENT CALENDAR (continued)

- C. Consideration of approving the First Amendment to City Manager Employment Agreement.  
RECOMMENDED ACTION: Approve Agreement.
- D. Consideration of approving the following agreements:
1. Memorandum of Understanding with the Mid-Management Employees Bargaining Unit for a Term of July 1, 2012 expiring June 30, 2015;
  2. Memorandum of Understanding with the Confidential Employees Bargaining Unit for a Term of July 1, 2012 expiring June 30, 2015;
  3. Sixth Amendment to the Employment Agreement for the Public Works Director recognizing negotiated changes in salary and benefits for July 1, 2012 – June 30, 2015.
  4. First Amendment to the Employment Agreement for the Finance Director recognizing negotiated changes in salary and benefits for July 1, 2012 – June 30, 2015;
  5. First Amendment to the Employment Agreement for the Administrative Services Director recognizing negotiated changes in salary and benefits for July 1, 2012 – June 30, 2015;
- RECOMMENDED ACTION: Approve Agreements.
- E. Consideration of a Resolution of Intention to Levy Business Improvement Assessments for Fiscal Year 2012-2013, which receives the Capitola Village and Wharf Business Improvement Area Annual Report and the proposed Fiscal Year 2012-2013 Budget; sets a public hearing to receive oral or written protests on the levy of assessments for Fiscal Year 2012-2013 for Thursday, June 28, 2012; and directs required noticing of the public hearing by the City Clerk and the Capitola Village and Wharf Business Improvement Area.  
RECOMMENDED ACTION: Adopt Resolution, receive annual report, and set public hearing for June 28, 2012.
- F. Consideration of the purchase of an unmarked detective vehicle for the Police Department in the amount of \$20,695.73 and surplus the police vehicle to be replaced.  
RECOMMENDED ACTION: Approve vehicle purchase.
- G. Consideration of a Resolution amending Resolution No. 3820 and Resolution No. 3869 pertaining to Gann Appropriation Limits for Fiscal Years 2010-11 and 2011-12 respectively; recommendation by Teaman Ramirez and Smith (City's previous audit firm).  
RECOMMENDED ACTION: Adopt Resolution.
- H. Consideration of a Resolution establishing a Gann Appropriation Limit pursuant to Article XIII B of the California Constitution for Fiscal Year 2012-2013.  
RECOMMENDED ACTION: Adopt Resolution.

## 8. CONSENT CALENDAR (continued)

- I. Consideration of awarding a janitorial bid to Clean Building Maintenance in the amount of \$47,783.50 per year.  
RECOMMENDED ACTION: Authorize the agreement.
- J. Receive Planning Commission Action Minutes for the Regular Meeting of June 7, 2012.  
RECOMMENDED ACTION: Receive Minutes.
- K. Consideration of a Resolution implementing the provisions of Section 414(H)(2) of the Internal Revenue Code related to the 2.5% at 55 Retirement Plan for Miscellaneous Employees and 3% at 50 Plan for Public Safety Employees.  
RECOMMENDED ACTION: Adopt Resolution.
- L. Adoption of a Resolution adopting the proposed 2012/2013 Fiscal Year Budget for the City of Capitola General Fund, the Capitola Successor Agency, and the Capital Improvement Budgets.  
RECOMMENDED ACTION: Adopt Resolution.
- M. Receive the Mayor's appointment of Frank Phanton as an alternate member to the Architectural and Site Review Committee.  
RECOMMENDED ACTION: Receive Appointment.
- N. Consideration of approving a request to proceed with recruitment for the vacancy of the unexpired term youth member to the Commission on the Environment.  
RECOMMENDED ACTION: Approve extension.

## 9. GENERAL GOVERNMENT/PUBLIC HEARINGS

*General Government items are intended to provide an opportunity for public discussion of each item listed. The following procedure is followed for each General Government item: 1) Staff explanation; 2) Council questions; 3) Public comment; 4) Council deliberation; 5) Decision.*

- A. 220 Oakland Avenue – Project Application # 12-044  
Appeal of Planning Commission decision to approve a Fence Permit and a Major Revocable Encroachment Permit to construct a wall within the City right-of-way as part of a single-family residential use in the R-1 (Single-Family Residence) Zoning District [APN 036-124-20]. Filed 3/29/12. Property Owner: Christann A. Bohnet. Representative: John Draga.  
RECOMMENDED ACTION: Deny the application.
- B. Consider report and presentation on traffic evaluation for Gilroy Avenue.  
RECOMMENDED ACTION: Accept report and provide direction to the Police Department.

## 9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

- C. Consideration of a Resolution regarding a Visitor Service Fee (Transient Occupancy Tax) Measure for November 6, 2012 Election.  
RECOMMENDED ACTION: Discuss and provide direction, adopt Resolution.
- D. Consideration of adopting a Resolution authorizing certain Council Members to file written arguments for or against City Measure(s) and filing of rebuttal arguments for City Measure(s) submitted at the November 6, 2012 General Municipal Election, and approve timeline for filing Arguments/Rebuttals for City Measure(s).  
RECOMMENDED ACTION: Adopt Resolution.
- E. Designation of Voting Delegate and Alternate for the League of California Cities Annual Conference in San Diego, California, from September 5 to 7, 2012.  
RECOMMENDED ACTION: Designate a Voting Delegate and Alternate to the Annual League Conference.

AT THIS POINT, ITEMS REMOVED FROM CONSENT CALENDAR WILL BE CONSIDERED

## 10. COUNCIL/STAFF COMMUNICATIONS

A. Staff CommentsB. City Council/Treasurer Comments/Committee Reports

*City Council Members /City Treasurer may comment on matters of a general nature or identify issues for staff response or future council consideration. Council Members/Committee Representatives may present oral updates from standing committees at this time.*

## 11. ADJOURNMENT

Adjourn to the next Regular Meeting of the City Council to be held on Thursday, June 28, 2012, at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

**Note:** Any person seeking to challenge a City Council decision made as a result of a proceeding in which, by law, a hearing is required to be given, evidence is required to be taken, and the discretion in the determination of facts is vested in the City Council, shall be required to commence that court action within ninety (90) days following the date on which the decision becomes final as provided in Code of Civil Procedure §1094.6. Please refer to code of Civil Procedure §1094.6 to determine how to calculate when a decision becomes "final." Please be advised that in most instances the decision become "final" upon the City Council's announcement of its decision at the completion of the public hearing. Failure to comply with this 90-day rule will preclude any person from challenging the City Council decision in court.

**Notice regarding City Council:** The Capitola City Council meets on the 2nd and 4th Thursday of each month at 7:00 p.m. (or in no event earlier than 6:00 p.m.), in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

**Agenda and Agenda Packet Materials:** The City Council Agenda and the complete agenda packet are available on the Internet at the City's website: [www.ci.capitola.ca.us](http://www.ci.capitola.ca.us). Agendas are also available at the Capitola Post Office located at 826 Bay Avenue, Capitola.

**Agenda Document Review:** The complete agenda packet is available at City Hall and at the Capitola Branch Library, 2005 Wharf Road, Capitola, on the Monday prior to the Thursday meeting. Need more information? Contact the City Clerk's office at 831-475-7300.

**Agenda Materials Distributed after Distribution of the Agenda Packet:** Pursuant to Government Code §54957.5, materials related to an agenda item submitted after distribution of the agenda packet are available for public inspection at the Reception Office at City Hall, 420 Capitola Avenue, Capitola, California, during normal business hours.

**Americans with Disabilities Act:** Disability-related aids or services are available to enable persons with a disability to participate in this meeting consistent with the Federal Americans with Disabilities Act of 1990. Assisted listening devices are available for individuals with hearing impairments at the meeting in the City Council Chambers. Should you require special accommodations to participate in the meeting due to a disability, please contact the City Clerk's office at least 24-hours in advance of the meeting at 831-475-7300. In an effort to accommodate individuals with environmental sensitivities, attendees are requested to refrain from wearing perfumes and other scented products.

**Televised Meetings:** City Council meetings are cablecast "Live" on Charter Communications Cable TV Channel 8 and are recorded to be replayed at 12:00 Noon on the Saturday following the meetings on Community Television of Santa Cruz County (Charter Channel 71 and Comcast Channel 25). Meetings are streamed "Live" on the City's website at [www.ci.capitola.ca.us](http://www.ci.capitola.ca.us) by clicking on the Home Page link "**View Capitola Meeting Live On-Line.**" Archived meetings can be viewed from the website at anytime.