

**CITY OF CAPITOLA
CITY COUNCIL****April 26, 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 Storey, and Mayor Termini. Council Member Norton was absent. 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: 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.

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 #CV173228];
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 #CV173642].

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.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code §54957)

Title: City Manager

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 7:15 p.m. on Thursday, April 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, Kirby Nicol, Sam Storey, and Mayor Michael Termini

ABSENT: Council Member Dennis Norton

OTHERS: City Treasurer Jacques Bertrand

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

2. PRESENTATIONS: None provided.

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 April 26, 2012, Closed Session Agenda. The City Council discussed with Attorney Gumbiner (special counsel), City Manager Goldstein, and City Attorney Barisone the potential first party insurance coverage lawsuit against Lexington Insurance Company's failure to honor the City's claim for property damages from the March 2011 pipe failure incident; a status report was received, and the City Council provided direction regarding the potential prosecution of the lawsuit. **City Attorney Barisone** stated that the City Council provided direction regarding the numerous potential litigation cases arising out of the Pacific Cove Mobilehome Park closure. He stated that the City Council did not discuss the litigation cases against the City of Capitola, arising out of the March 2011 pipe failure by third-party property owners, because there were no new developments to report. He stated that the City Council received a status report from the City Manager and the Administrative Services Director, the City's labor negotiators, regarding the following employee bargaining organizations: (1) Association of Capitola Employees; (2) Capitola Police Captains; (3) Capitola Police Officers Association; (4) Confidential Employees; (5) Mid-Management Group; and (6) Department Head Group; the Council took no reportable action. **Mr. Barisone** stated that the labor negotiators took instruction from the Council with regard to ongoing negotiations. He stated that due to time constraints the City Manager's performance evaluation did not occur.

4. **ADDITIONS AND DELETIONS TO AGENDA**

None provided.

5. **PUBLIC COMMENTS**

Angela Flynn stated that the last day to opt-out of getting a SmartMeter installed at a residence is May 1, 2012.

Marilyn Garrett stated she opposes SmartMeters.

Carol Lerno, Pacific Cove Mobile Home Park, Space 66, stated her brother is experiencing difficulty in relocating a residence as a result of the Pacific Cove Mobile Home Park closure.

6. **COUNCIL/STAFF ANNOUNCEMENTS** (None provided)

7. **COMMITTEE APPOINTMENTS** (None provided)

8. **CONSENT CALENDAR**

- A. Approve City Council Minutes of the Regular Meetings of March 8, 2012, and March 22, 2012.
- B. Receive the City Check Register Reports dated March 16, 2012; March 23, 2012; March 30, 2012; April 6, 2012; and April 13, 2012. [300-10]
- C. Approve an amendment to the Administrative Policy Regarding the Memorial Program. [100-10/1040-50]
- D. Receive Planning Commission Action Minutes for the Special Meeting of April 19, 2012. [740-50]
- E. Art & Cultural Commission 2011 Annual Report. [1010-60]
- F. Consideration of Resolution amending the Bylaws of the Capitola Art & Cultural Commission regarding membership. [1010-60]
- G. Consideration of approving the purchase of one police patrol vehicle and a police equipment package in the amount of \$37,305, not to exceed \$38,000; request to surplus the police vehicle being replaced. [370-40/370-10]

Council Member Storey requested that Item 8.C. be pulled for discussion.

Council Member Nicol requested that Item 8.G. be pulled for discussion.

Motion by Council Member Harlan, seconded by Council Member Storey, to approve Items No. 8. A, B, D, E, and F on the Consent Calendar. The motion was unanimously carried.

8. CONSENT CALENDAR (continued)

Following actions on the Consent Calendar, the City Council then discussed Item 8.C. and Item 8.G. and took separate action on those items.

C. Approve an amendment to the Administrative Policy Regarding the Memorial Program. [100-10/1040-50]

Council Member Storey asked if a family who provided a memorial plaque would be contacted if the plaque were lost or damaged from a natural disaster. (**Administrative Services Director Murphy** responded the family would be contacted).

ACTION: Motion by Council Member Harlan, seconded by Council Member Storey, to approve an amendment to the Administrative Policy Regarding the Memorial Program. The motion carried unanimously with the following vote: AYES: Council Members Harlan, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: Council Member Norton. ABSTAIN: None.

G. Consideration of approving the purchase of one police patrol vehicle and a police equipment package in the amount of \$37,305, not to exceed \$38,000; and request to surplus the police vehicle being replaced. [370-40/370-10]

Police Chief Escalante introduced this item.

ACTION: Motion by Council Member Storey, seconded by Council Member Nicol, to approve the purchase of one police patrol vehicle and a police equipment package in the amount of \$37,305, not to exceed \$38,000; request to surplus the police vehicle being replaced. The motion carried unanimously with the following vote: AYES: Council Members Harlan, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: Council Member Norton. ABSTAIN: None.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS

A. Receive report and recommendations regarding the Reposa Avenue Traffic Analysis; consideration of an amendment to Title 10 (Vehicles and Traffic) of the Capitola Municipal Code to prohibit commercial traffic on Reposa Avenue. [490-40]

Public Works Director Jesberg introduced this item. He stated that the Public Works Department conducted a traffic impact analysis on Reposa Avenue as part of the approval of the Fairfield Inn and Suites Hotel Project.

Council Member Storey asked about the purpose of the median island built as part of the hotel project.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

Public Works Director Jesberg responded that the median was installed to prevent vehicles from turning left off Brommer Street into the hotel; the median will probably be relocated in the southerly direction to make the westbound lane wider.

Mayor Termini opened this item to the public.

Bonnie Ford, 4055 Reposa Avenue, spoke in favor of this proposal.

Ron Graves, 420 Riverview Avenue, asked if banning commercial traffic would affect those who operate their businesses out of their residences on Reposa Avenue.

City Attorney Barisone responded that those operating businesses out of their homes would be exempt from the ban on commercial traffic on Reposa Avenue.

Mayor Termini closed this item to the public.

ACTION: Motion by Council Member Nicol, seconded by Council Member Storey, to approve an ordinance to a second reading amending Sections 10.48.010 and 10.48.040 of the Capitola Municipal Code to prohibit commercial traffic on Reposa Avenue and amending the code to be consistent with State law, and authorize the Department of Public Works to redesign the 41st Avenue/Brommer Street intersection to improve truck movements from southbound 41st Avenue on to westbound Brommer Street, including removal or relocating the raised median [1st Reading]. The motion carried unanimously with the following vote: AYES: Council Members Harlan, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: Council Member Norton. ABSTAIN: None.

- B. Consideration of a contract with the City of Santa Cruz for \$67,000 to perform lifeguard services on the beaches in the City of Capitola and authorize a budget adjustment in the amount of \$5,352. [1020-50/500-10 A/C: City of Santa Cruz] [Budget Adjustment 330-10]

Police Chief Escalante introduced this item. He stated that the goal is to continue to provide maximum sustainable, certified lifeguard services to the community, while being efficient with our available resources. He reviewed the benefits of contracting with the City of Santa Cruz to perform lifeguard services.

Council Member Storey asked if the lifeguard recertification for the City of Santa Cruz is more stringent than the City's lifeguard training. He asked about the cost savings for the proposed contract for lifeguard services.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

Police Chief Escalante stated that the costs of the proposed contract fall over two different fiscal year budget cycles. The City has already spent a portion of lifeguards' personnel expenses this fiscal year, which is an additional cost that will increase the salaries for the Police Department by approximately \$5,352.

City Manager Goldstein stated this contract will provide another full-time Community Service Officer during the summer months.

Mayor Termini opened this item to the public.

Ron Graves, 420 Riverview Avenue, stated concerns regarding additional costs to the City if the proposed contract is approved.

Mayor Termini closed this item to the public.

Council Member Storey asked if emergency mutual aid is provided county-wide.

Captain Oatey, Santa Cruz Fire Department Marine Safety Division, stated that county-wide mutual aid services are provided, and he presented a brief summary of lifeguard services to be provided on the beaches in the City of Capitola.

ACTION: Motion by Council Member Storey, seconded by Council Member Nicol, to authorize a contract with the City of Santa Cruz for \$67,000 to perform lifeguard services on the beaches in the City of Capitola, and authorize a budget adjustment in the amount of \$5,352. The motion carried unanimously on the following vote: AYES: Council Members Harlan, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: Council Member Norton. ABSTAIN: None.

C. Consideration of options for the Rispin Property consistent with State requirements to dispose of property owned by the former Redevelopment Agency (RDA). [275-10]

Mayor Termini introduced this item and requested public input and City Council direction.

City Manager Goldstein reviewed the establishment of the Oversight Board charged with overseeing the winding down of the RDA's activities. He stated that the Rispin property is considered an asset of the former RDA and the Mayor, who is a member of this Board, is requesting direction regarding the methodology in complying with the state law requirements and direction regarding reducing the minimum administrative cost allowance as prescribed in the state legislation. He provided a brief history of the Rispin property and stated that the Board may

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

decide to transfer the property back to the City with concessions, or will decide to dispose of the property by selling it on the open market. He noted that the property is limited by the City's public access and conservation easements. He suggested that the Mayor, as a Board member, be provided direction to either seek to have the property transferred back to the City, which would likely include concessions on the note; or that the property be sold, and new uses of the property be limited by the zoning (City's public access and conservation easements). Any changes to the historic structure would be subject to CEQA requirements.

Mayor Termini stated that the state law is clear; the City is to be given a minimum of \$250,000 per year for administrative fees, unless the City agrees to a lesser amount.

City Manager Goldstein stated the staff recommendation is for Council to not voluntarily reduce the administrative cost allowance as specified in the state law.

Mayor Termini opened the public hearing.

Peter Pethoe, Santa Cruz Hostel, proposed that the building on the Rispin property be utilized as a hostel.

Mayor Termini closed the public hearing.

Council Member Nicol stated the Oversight Board's disposition of the Rispin property could be a windfall because the City has the public access and conservation easements that run with the property, and there may be an acceptable future proposal. He stated that the City should get the money back because the Rispin property was sold to the RDA for the same amount that the City paid for it (\$1,365,000).

Council Member Harlan stated that her preference would be for the City to keep the Rispin property and plan how it could be open for public use.

Council Member Storey stated that he would like the City to keep control of the Rispin property; he stated concerns regarding the City losing control if the Oversight Board decides to sell the property.

Mayor Termini stated this is new legal territory, and the Council may decide to keep the property and forgive the note; however, the state may have a different idea. He will forward Council's comments/concerns to the next Oversight Board meeting. He stated that he understands that the Council does not desire to voluntarily reduce the minimum administrative cost allowance for the Capitola Successor Agency.

9. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

D. Consideration of reentering loan agreements between the City and the Successor Agency to the former Redevelopment Agency (RDA) of the City of Capitola. [780-30/500-10/780-40 A/C: City/Successor Agency]

City Manager Goldstein stated that as part of the RDA dissolution process, the Oversight Board approved the Certified Recognized Obligation Payments Schedule (ROPS); the period for the California State Department of Finance to challenge the ROPS has expired. He stated that the certified ROPS provide the City an opportunity to re-enter into the Loan and Repayment Agreement (\$618,028) and the Rispin Purchase Loan (\$1,350,000) as debts of the Successor Agency.

Mayor Termini opened this item to the public

Peter Pethoe, Santa Cruz Hostel, invited the Council and staff to tour the Santa Cruz hostel.

Mayor Termini closed this item to the public

ACTION: Motion by Council Member Nicol, seconded by Mayor Termini, to approve re-entering the loan agreements between the City and the Successor Agency to the former Redevelopment Agency of the City of Capitola. The motion carried unanimously on the following vote: AYES: Council Members Harlan, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: Council Member Norton. ABSTAIN: None.

10. COUNCIL/STAFF COMMUNICATIONS

City Manager Goldstein stated that the north side of the City Hall parking lot has been temporarily closed for tree removal.

Public Works Director Jesberg announced plans for the Pacific Cove Mobilehome and City Hall property will be discussed at 9:30 a.m. at the Saturday, May 12th General Plan Workshop. In addition, he stated that the owner of Crest Apartments obtained a permit from the California Coastal Commission to fill a sea cave; the project has created jack hammer noise at the end of Esplanade Park.

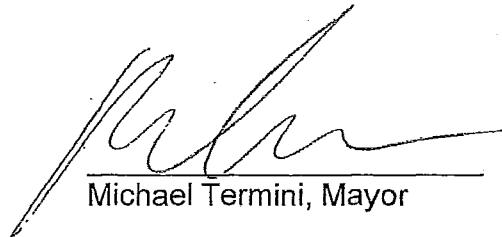
Council Member Nicol requested the Public Works Director look into modifying the lane configuration on eastbound Clares Street between 40th Avenue and 41st Avenue.

10. COUNCIL/STAFF COMMUNICATIONS (continued)

Mayor Termini stated that he attended a special luncheon hosted by Paradise Beach Grille Restaurant, where he provided Mayor Proclamations to wounded soldiers who participated in a nonprofit program called Operation Surf; this program provides surfing lessons to active military amputees.

11. ADJOURNMENT

Mayor Termini adjourned at 8:40 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.



Michael Termini, Mayor

ATTEST:



Susan Sneddon, CMC
Susan Sneddon, City Clerk

MINUTES WERE UNANIMOUSLY APPROVED ON JUNE 14, 2012