

**CITY OF CAPITOLA
CITY COUNCIL**

March 22, 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 Govt. Code §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.

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 the 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 CV #173071]

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.

LIABILITY CLAIMS (Govt. Code §54956.95)

Claimant: Jeff & Kate McCarthy-Lewis

Claimant: Michael J. O'Leary

Agency claimed against: City of Capitola

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 7:15 p.m. on Thursday, March 22, 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

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

2. PRESENTATIONS

A. Proclamation honoring Frank Phanton for his service on the Capitola Architectural & Site Review Committee from February 2003 through February 2012. [120-40]

Mayor Termini announced that the proclamation honoring Frank Phanton for his service on the Capitola Architectural & Site Review Committee from February 2003 through February 2012 will be presented later in the meeting.

B. Proclamation honoring Police Chief Mike Card for 35 years of service. [120-40]

Mayor Termini presented Police Chief Mike Card in honor of his retirement:

(1) Proclamation from the City of Capitola; (2) Recognition plaque from the City; and

(3) Certificate of Recognition from the State Legislature, signed by Assemblymember Bill Monning.

Police Officer Booth presented Police Chief Mike Card with the United States Flag that was flown over the White House in Washington D.C.

C. Presentation from Veronica Elsea, Pedestrian Safety Work Group Chair, regarding Pedestrian Safety Work Group. [485-10]

Veronica Elsea, Santa Cruz Regional Transportation Commission's (SCCRTC) Pedestrian Safety Work Group Chair, provided a summary of SCCRTC's bicycle and pedestrian hazard online reporting and the county-wide sidewalk maintenance standards.

3. REPORT ON CLOSED SESSION [520-25]

City Attorney Barisone stated that items that the City Council discussed are the items listed on the March 22, 2012, Closed Session Agenda; the Council received a brief status report concerning a City of Capitola Insurance Coverage Claim Against Lexington Insurance and the Pacific Cove Mobilehome pipe failure and park closure; however, the Council took no reportable action. **City Attorney Barisone** stated that the Council did not discuss any of the following four existing litigation lawsuits: (1) Kevin Calvert, D.D.S. and Pamela Calvert vs. City of Capitola, et al. [Superior Court of the State of California for the County of Santa Cruz; (2) Katie Saldana vs. City of Capitola, et al.; (3) Foremost Insurance Company vs. the City of Capitola, et al.; (4) Truck Insurance vs. the City of Capitola, et al. **Mr. Barisone** stated that the City Council received a status report from Administrative Services Director Murphy and City Manager Goldstein, the City's labor negotiators, regarding the following employee bargaining organizations; the Council took no reportable action: (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. **Mr. Barisone** stated that the labor negotiators took instruction from the Council with regard to ongoing negotiations. He also noted that the Council did not discuss the following two liability claims: (1) Jeff & Kate McCarthy-Lewis; and (2) Claimant: Michael J. O'Leary.

4. ADDITIONS AND DELETIONS TO AGENDA**5. PUBLIC COMMENTS**

Marilyn Garrett stated her concerns regarding the SmartMeters.

Carol Lerno, Pacific Cove Mobile Home Park, Space 66, stated that AutoTemp has been helpful in providing Pacific Cove Mobile Home Park residents with relocation services.

Sean Miller, Pacific Cove Mobile Home Park resident, stated concerns about the amount the City would pay for his mobile home at Pacific Cove Mobile Home Park.

6. COUNCIL/STAFF ANNOUNCEMENTS

There was Council consensus to move the section entitled **COUNCIL/STAFF ANNOUNCEMENTS** (*Item No. 6*) to follow the section entitled **GENERAL GOVERNMENT** in the City Council regular meeting agendas.

7. COMMITTEE APPOINTMENTS**8. CHECK REGISTER [300-10]**

Received and filed the Check Register for March 2 and 9, 2012.

9. CONSENT CALENDAR

A. Approve City Council Minutes of the Special Meeting of February 16, 2012.

9. CONSENT CALENDAR (continued)
- B. Receive City Treasurer's Report for Month ended February 29, 2012 (Unaudited). [380-30]
 - C. Consideration of approving a request from the Capitola Public Safety and Community Service Foundation for a Special Event Permit for the 7th Annual Capitola Rod & Custom Classic Car Show in Capitola Village on Saturday and Sunday, June 9 and 10, 2012. [1050-70]
 - D. Consideration of approving a Special Event Permit for the Mermaid Triathlon and Duathlon to be held on Saturday, October 6, 2012, in various areas of Capitola. [1050-70]
 - E. Deny liability claims and forward to the City's liability insurance carrier: Jeff and Kate McCarthy-Lewis, in the amount of \$1,437.54; Michael J. O'Leary, in the amount of \$48,265.11. [Claims Binder]

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

10. GENERAL GOVERNMENT/PUBLIC HEARINGS

- A. Consideration of approving the proposed 41st Avenue Public Art Project; approving a contract with Troy Corliss in an amount not to exceed \$200,000, and authorize the City Manager to execute a contract. [1010-10/ 500-10 A/C: Corliss, Troy]

Administrative Services Director Murphy provided a brief history of this item regarding a public art project to be erected in the medians along 41st Avenue. She stated that an Artist Selection Panel was formed, composed of members of the business community along 41st Avenue, art professionals, and a youth member. The panel's responsibility was to take the community's input along with the Commission's and utilize that information when selecting the artist for the project. There were 84 applicants for this project; ultimately 4 were selected to prepare a conceptual model/design and present it to the panel. She stated that the Artist Selection Panel selected Troy Corliss to be the recommended artist, and the Art and Culture Commission approved that recommendation in February 2012. Staff is recommending that Council authorize the City Manager to negotiate and enter into an agreement with Troy Corliss in an amount not to exceed \$200,000 from the Public Art Fund and approve a budget amendment appropriating \$15,000 from the Public Art Fund Balance and increasing the Public Art Fund contract expenditures by \$15,000.

Troy Corliss, Artist, provided a PowerPoint presentation with the 41st Avenue Streetscape Public Art Project concept proposal.

City Council discussion ensued regarding this item.

10. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

Council Member Norton suggested that external lighting be added to this project as a security measure. He proposed a budget amendment appropriating \$25,000 (instead of \$15,000) from the Public Art Fund balance to include the cost of the lighting.

Lynn Rogers, City of San Jose Office of Cultural Affairs Project Manager, stated that the proposed art project is structurally sound.

ACTION: Motion was made by Council Member Norton, seconded by Council Member Storey, to approve the proposed 41st Avenue Public Art Project; approving a contract with Troy Corliss in the amount not to exceed \$200,000, approving a budget amendment appropriating \$25,000 from the Public Art Fund balance to include the cost of the lighting, and authorizing the City Manager to execute a 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.

2. PRESENTATION (continued)

A. Proclamation honoring Frank Phanton for his service on the Capitola Architectural & Site Review Committee from February 2003 through February 2012. [120-40]

Mayor Termini read and presented a proclamation to Frank Phanton honoring him for his service on the Capitola Architectural & Site Review Committee from February 2003 through February 2012.

10. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

B. Consideration of a Zoning Code Amendment to Title 17 of the Capitola Municipal Code to modify the parking standards for single-room occupancy and amending the Industrial Zone regulations to allow an emergency shelter. [730-85/570-10]

Interim Community Development Director Westman introduced this item regarding proposed ordinances related to the following housing actions called for in the City's 2007-2014 Housing Element: (1) Ordinance amending the number of parking spaces required for single-room occupancy (Section 17.51.130); and (2) Ordinance amendment pertaining to emergency shelters (Section 17.36.040).

Council Member Storey stated that the proposal to reduce the parking requirement for units less than 400 square feet to one parking space per unit would result with more cars parked on the street. He asked if the Department of Housing Community Development (HCD) is requiring the City to reduce the City's parking requirements for the City's Housing Element.

10. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

Interim Community Development Director Westman responded that the staff recommendation regarding parking requirements is intended to meet HCD's requirement and is a "softer" approach; in two years the City will be amending the Housing Element and will have the ability to accommodate a significant number of new residential units.

Mayor Termini opened the public hearing.

Bruce Arthur, 104 Cliff Avenue, stated concerns regarding complying with HCD.

City Treasurer Bertrand stated that he agrees with the single-room occupancy requirement in that it supports the City's population.

Manual Vera, Cabrillo Mobile Home Estates, stated concerns regarding having an emergency shelter in the Industrial Zone because it may affect businesses in the area.

Mayor Termini closed the public hearing.

ACTION: Motion made by Council Member Nicol, seconded by Council Member Norton, to approve the introduction of a Zoning Code Amendment to Title 17 of the Capitola Municipal Code to modify the parking standards for single-room occupancy, and to amend the Industrial Zone regulations to allow an emergency shelter [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.

Council Member Harlan stated that it is inappropriate for HCD to require that the City adopt a zoning code amendment to modify the parking standards for single-room occupancy since the City is built-out. She suggested working with a coalition around the state to educate or asking Assemblymembers and Senators to forego this requirement due to a lack of water and the community's transportation challenges.

Mayor Termini stated that initially he had been opposed to amending the Industrial Zone regulations to allow an emergency shelter because it was presented as a allowed use with no review requirement; now he understands that if one is built, it will be properly noticed and will be reviewed by the Planning Commission.

C. Receive update regarding the financial management recommendations, and consider an amendment to the Title 3 Section 20.050 of the Capitola Municipal Code pertaining to budget transfers and budget amendments. [330-10/570-10]

Finance Director Hannah provided a PowerPoint presentation and reviewed the following five staff recommendations: (1) register of warrants; (2) budget transfers and amendments; (3) interfund loans; (4) financial reporting; and (5) the use of resolutions. She stated that the register of warrants will remain on the Council agenda to ensure transparency; however, no vote is required. Staff proposes amending the Municipal Code pertaining to budget transfers and budget amendments with \$25,000 or more requiring Council approval and placement on

10. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

the Consent Calendar portion of the Council agenda. She stated that interfund payables and receivables will only be posted at year-end, if applicable. In order to streamline and improve financial reporting the City Clerk and the Council will be provided a short summary of receipts, disbursements, and fund balances; revenue and departmental financial reports will be posted quarterly to the City's website and distributed to Council. Resolutions will no longer be required for budget amendments and contracts.

ACTION: Motion made by Council Member Nicol, seconded by Council Member Storey, to approve listing the Check Register of Warrants on the Consent Calendar portion of the Council Agenda monthly, without a vote requirement; to introduce a proposed Ordinance amending Title 3 Section 20.050 of the Capitola Municipal Code pertaining to Budget Transfers and Budget Amendments [1st Reading]; to approve a modified procedure for reporting interfund loans, financial reporting, and removing the requirements that resolutions be used for budget adjustments and contracts. The motion carried unanimously with the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

D. Consideration of a Permanent Quarter-Cent Sales Tax Measure for November 6, 2012 Election and a Resolution Ordering Election and Requesting Consolidation with the Presidential General Election. [560-10]

City Manager Goldstein stated that this item is to request the consolidation of the City's General Municipal Election on November 6, 2012, and to include a ballot measure imposing a permanent retail transactions and use tax.

Mayor Termini opened this item for public comment.

None provided.

Mayor Termini closed this item for public comment.

ACTION: Motion made by Council Member Storey, seconded by Council Member Harlan, to adopt Resolution No. 3912 requesting Santa Cruz County Elections conduct the election and requesting consolidation of the General Municipal Election in the City of Capitola on Tuesday, November 6, 2012; and approving the addition of a Ballot Measure regarding a permanent Quarter-Cent Sales Tax Measure for the November 6, 2012 Election. 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. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

E. Consideration of authorizing the City Manager to issue a Request for Proposal (RFP) to develop a hotel on the McGregor Property. [250-10]

Interim Community Development Director Westman stated that this item is a request for Council to authorize staff to issue a request for proposal (RFP) for a hotel development on the McGregor property; the City Council is not required to accept any of the proposals it receives as a result of this process but will have the opportunity to evaluate them and decide if this is a good use for the City-owned parcel.

Mayor Termini opened this item for public comment.

Nathan Cross, Finance Advisory Committee Member, stated that this recommendation was discussed at the last Finance Advisory Committee meeting, and the consensus was to encourage the Council to proceed with the RFP process. He stated that this is a great opportunity to see if a hotel at this site is viable.

Mayor Termini closed this item for public comment.

Council Member Norton stated that the City owns minimal land and is concerned about giving up rural property at the entrance to the City for commercial use; a hotel would be better suited in an urban area of the City where there are more services/facilities.

Council Member Storey stated concerns regarding developing a hotel on the McGregor Property which is open space at a gateway to the community. He suggested a determination be made regarding the current lodging vacancy rate and the net gain of transient occupancy tax, and if a hotel would fit the character and quality of the community.

Council Member Nicol stated that the McGregor Property is not a gateway to the City, and a hotel at this location would bring new sources of revenue to the City. He stated that the City has several parks, and the community has an abundance of open space.

ACTION: Motion made by Council Member Norton, seconded by Council Member Harlan, to authorize the City Manager to issue a Request for Proposal to develop a hotel on the McGregor Property. The motion carried with the following vote: AYES: Council Members Harlan, Nicol, Storey, and Mayor Termini. NOES: Council Member Norton. ABSENT: None. ABSTAIN: None.

11. COUNCIL/STAFF COMMUNICATIONS

Council Member Storey announced that the City is eligible to apply for the Monterey Bay Unified Air Pollution Control District Assembly Bill 2766 Grant, and the deadline is approaching.

11. COUNCIL/STAFF COMMUNICATIONS (continued)

Mayor Termini stated that the Criminal Justice Council of Santa Cruz recently met; discussions included increasing concerns about the pervasiveness of gang violence in elementary schools.

Council Member Norton requested an update on the orange spray paint on City's streets.

Public Works Director Jesberg stated that the orange paint was used by a contractor hired by the County Sanitation District to mark AT&T and Charter cable for an Underground Service Alert (USA) Project.

Council Member Harlan stated that the Association of Monterey Bay Area Governments is recruiting for a new Executive Director.

City Treasurer Bertrand requested that the Finance Advisory Committee agenda packets be added to the Dropbox to make it easier to share that information.

A. Staff Comments (None provided)

B. City Council/Treasurer Comments/Committee Reports (None provided)

12. COUNCIL/STAFF ANNOUNCEMENTS (None provided)

13. ADJOURNMENT

At 9:43 p.m. **Mayor Termini** adjourned the Regular City Council Meeting to the next Regular Meeting of the City Council to be held on Thursday, April 12, 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 APRIL 26, 2012