

**CITY OF CAPITOLA
CITY COUNCIL****March 8, 2012
Capitola, California****MINUTES OF A REGULAR MEETING****6:00 P.M. – CLOSED SESSION – CITY MANAGER’S OFFICE****CALL TO ORDER**

At 6:00 p.m. in the City Hall Council Chambers, Mayor Termini noted that all Council Members were present. 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 Flooding and Closure;
3. Larson vs. City of Capitola.

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 #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]

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.

Mayor Termini noted that there was no one in the audience; therefore, the City Council recessed at 6:05 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, March 8, 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, Assistant City Attorney John Barisone, Administrative Services Director Lisa Murphy, Finance Director Tori Hannah, Public Works Director Steve Jesberg, and City Clerk Susan Sneddon

2. PRESENTATIONS

- A. **Senior Citizens Legal Services and Seniors Council presentation by Terry Hancock, Directing Attorney for Senior Citizens Legal Services, and Clay Kempf, Executive Director of Seniors Council of Santa Cruz & San Benito Counties. [330-30]**

Clay Kempf, Executive Director of Seniors Council of Santa Cruz & San Benito Counties, provided an overview of the service programs provided.

Terry Hancock, Directing Attorney for Senior Citizens Legal Services, provided a brief overview of senior legal services provided.

- B. **Presentation by George Dondero and Kim Schultz of the Santa Cruz County Regional Transportation Commission. [770-05]**

Kim Schultz, Santa Cruz County Regional Transportation Commission, provided a Highway 1 Corridor Project update.

George Dondero, Santa Cruz County Regional Transportation Commission, provided a PowerPoint presentation regarding the Highway 1 Corridor Project.

3. REPORT ON CLOSED SESSION [520-25]

City Attorney Barisone stated that the items the City Council discussed are the items listed on the March 8, 2012 Closed Session Agenda; the Council received a brief status report concerning a City of Capitola Insurance Coverage Claim Against Lexington Insurance; however, the Council took no reportable action. **City Attorney Barisone** stated that the Council did not discuss the item regarding the Pacific Cove Mobile Home Park Flooding and Closure. **Mr. Barisone** stated the Council received a status report from the City Manager and the Administrative Services Director in connection with the Equal Employment Opportunity Commission Administration proceeding, entitled Larson vs. the City of Capitola; however, no reportable action was taken. **City Attorney Barisone** stated that Council did not discuss the following cases: (1) Kevin Calvert, D.D.S. and Pamela Calvert; (2) Katie Saldana; (3) Foremost Insurance Company; and (4) Truck Insurance. **City Attorney Barisone** stated that the City Council heard from Administrative Services Director Murphy and City Manager Goldstein, the City's labor negotiators, regarding the following employee bargaining organizations, and 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.

4. ORAL COMMUNICATIONS

Lin Banks, Capitola Begonia Festival, provided an update regarding the 60th Capitola Begonia Festival.

Carol Lerno, Pacific Cove Mobile Home Park, Space 66, stated that the Pacific Cove Mobile Home Park residents have not been contacted by AutoTemp regarding relocation services.

Melvin "Red" Malone, resident of the Bay Avenue Senior Apartments, stated concerns regarding parking his vehicle at the Bay Avenue Senior Apartments to avoid getting a parking ticket.

Natasha Kowalski, Santa Cruz County Tobacco Education Coalition Senior Health Educator, stated there has been an increase in the number of youth smoking cigarettes; the Surgeon General recently reported on the "shocking" number of teens smoking.

Marilyn Garrett stated her concerns regarding the SmartMeters.

Molly Ording, Capitola Village Residents Association, stated that they are sponsoring a community dinner event on March 29th at Paradise Grill at beginning 5:30 p.m.

A. Additions and Deletions to Agenda (none provided)

4. ORAL COMMUNICATIONS (continued)

B. Public Comments (none provided)

C. Staff Comments

City Manager Goldstein stated that additional material was provided for Item 6.C. regarding damages sustained to the Capitola Wharf and the consideration of awarding contracts to facilitate repairs. Also, he announced that the City's first meeting of the Oversight Board (formerly the City's Redevelopment Agency) is scheduled for March 29th at 2 p.m.; the second meeting is tentatively schedule for April 12th at 2 p.m. to be held in the Council Chambers.

Council Member Storey, the City's representative on the Santa Cruz Library Joint Powers Board, stated that the Santa Cruz Library Joint Powers Board will be initiating discussions regarding the Fiscal Year 2012/2013 Budget, and will also discuss funding available to increase the libraries' hours of operations. [230-10].

Council Member Harlan stated that the Capitola Museum is having a grand opening on Saturday, March 10th beginning at 12 (noon).

D. City Council Treasurer Comments/Committee Report (None provided)

E. Committee Appointments (None provided)

F. Check Register Report [300-10]

The City Council received the Check Register Report for February 3 and 10, 2012. Note: There was Council consensus to include all future check register reports in the Council agenda packets but not require a council vote.

5. CONSENT CALENDAR

Council Member Storey stated the following corrections to the Minutes of the February 9, 2012 Council Meeting: For Item 5.A. he announced that he had been appointed as the Chair to the Santa Cruz Library Joint Powers Board and not the Santa Cruz Library Financing Authority; in addition, the minutes stated that he voted no on Item 6.D. regarding the Community Grant Program for Fiscal year 2011/2012; he had abstained due to a conflict of interest (City Clerk noted the corrections).

5. CONSENT CALENDAR (continued)

A. Approve City Council Minutes of the Regular Meeting of February 9, 2012.

ACTION: Motion made by Council Member Storey, seconded by Council Member Norton, to approve the corrected minutes of the Regular Joint Meeting of the City Council Agency of February 9, 2012. 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 approving the Notice of Completion for the Cherry Avenue Project. [940-40]

ACTION: Motion made by Council Member Storey, seconded by Council Member Norton, to approve the Notice of Completion for the Cherry Avenue Project. 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 an Employment Agreement for the Police Chief, Rudy Escalante, and authorize the City Manager to execute the agreement. [500-10 A/C: Escalante, Rudy]

ACTION: Motion made by Council Member Storey, seconded by Council Member Norton, to approve the Employment Agreement for the new Police Chief, Rudy Escalante, and 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.

D. Receive Planning Commission Action Minutes for the Regular Meeting of March 1, 2012. [740-50]

ACTION: Motion made by Council Member Storey, seconded by Council Member Norton, to receive Planning Commission Action Minutes for the Regular Meeting of March 1, 2012. 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 introduced Rudy Escalante as the City's new Police Chief.

Rudy Escalante thanked the City for the opportunity to be offered the position as the City's new police chief and said he looks forward to being a part of the team.

6. GENERAL GOVERNMENT/PUBLIC HEARINGS

Council Member Storey announced that he would recuse himself from voting on the following item because he is the Community Bridges CEO (non-profit organization) and voting on this item would be a conflict of interest.

A. Discussion regarding funding the remaining \$137,500 for the Fiscal Year 2011/2012 Community Grants, and determine funding methodology for Fiscal Year 2012/2013 Community Grant Program. [330-30]

NOTE: This item was separated as follows for the purpose of discussion and voting.

(1) Discussion regarding funding the remaining \$137,500 for the Fiscal Year 2011/2012 Community Grants.

Administrative Services Director Murphy introduced this item. She stated that at the February 23, 2012 meeting the Council voted to agendaize to the next Council meeting the discussion regarding funding the remaining 50% of the Fiscal Year 2011/2012 Community Grants, and to include a discussion regarding the funding for the Fiscal Year 2012/2013 Community Grant Program.

Finance Director Hannah provided an update on the Fiscal Year 2011/2012 Budget; positives are that the budget remains balanced, and sales tax, as well as receipts for transient occupancy taxes, appears to be trending positive; negatives are that reserve accounts are underfunded by approximately \$1.4 million, and there are significant unknowns and costs. She stated that in proposed Fiscal Year 2012/2013 there are new ongoing costs – Pacific Cove loan; dissolution of the City's Redevelopment Agency; rent subsidy program; funding of the Capitola-Soquel Chamber of Commerce and the Santa Cruz County Visitors Center; and unknowns regarding whether or not the City will be reimbursed for the March 2011 flood. She stated that if the City funds the remaining \$137,500 for the Fiscal Year 2011/2012 Community Grants, it will leave \$160,000 in the City's primary reserve funds.

The following representatives from various nonprofits in Santa Cruz County provided support for the City's continued community grant funding, many of whom provided a copy of specific community grant agreements with the City:

Willis Sullivan, Human Care Alliance representative

Clay Kempf, Seniors Council Executive Director

Colleen DeCarlo, Grey Bears volunteer

Maria Cubillas, Big Brothers Big Sisters of Santa Cruz County Executive Director

Kelly Dillon, Big Brothers Big Sisters of Santa Cruz County Board Member

Lisa Burkewitz, Meals on Wheels for Santa Cruz County

6. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

Kurt Antz, Community Bridges Lift Line operator
Tim Bradley and Cheryl Melato, Grey Bears
Debra Bone, Cabrillo College Stroke Center Director
Celia Goeckermann, Santa Cruz County Community Counseling Center
Lani, Volunteer Center of Santa Cruz County
Nona Sanchez, Community Action Board of Santa Cruz County,
Debra Sanchez, Families in Transition Santa Cruz County.
Kathleen Johnson, Advocacy, Inc.
Jane, Senior Council of Santa Cruz and San Benito County
Darrell Johnson, Senior Council Board Member Santa Cruz County.
Rita Flores, Santa Cruz County Family Service Agency
Brenda Moss, Senior Network Services
Eva Brunner, WomenCARE
Emily Glanville, Save Our Shores Program Manager
Brook Johnson, Second Harvest Food Bank

Council Member Nicol stated that in general funding social services rests primarily with counties; both counties and cities have cut back in funding these types of services due to budget constraints. He stated that the City is faced with revenue reductions and needs to focus on replenishing the City's reserves.

Council Member Norton stated that he is in favor of keeping the City's commitment in funding the remaining one-half of the 2011/2012 Fiscal Year for the Community Grants.

ACTION: Motion by Council Member Norton, seconded by Council Member Harlan, to allocate \$137,500 from the City's Emergency Reserve Fund for the Fiscal Year 2011/2012 Community Grant Program. The motion carried with the following vote: AYES: Council Members Harlan, Norton, and Mayor Termini. NOES: Council Member Nicol. ABSENT: None. ABSTAIN: Council Member Storey.

(2) Determine funding methodology for Fiscal Year 2012/2013 Community Grant Program.

Council discussion ensued regarding this item.

Council Member Harlan and **Council Member Norton** stated that the City's Fiscal Year 2012/2013 Budget should be adopted prior to making a determination about the funding methodology for Fiscal Year 2012/2013 Community Grant Program.

6. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

Mayor Termini suggested not including the Community Grant Program in the City's Fiscal Year 2012/2013 Budget; he suggested contracting with certain non-profits for services.

ACTION: *Motion made by Council Member Norton, seconded by Council Member Nicol, to direct staff to remove the funding for the Community Grant Program, the Santa Cruz County Visitors Center, the Capitola-Soquel Chamber of Commerce, the annual Capitola Begonia Festival from the proposed Fiscal Year 2012/2013 Budget, and to bring back to Council the discussion regarding the funding methodology for the Community Grant Program during the Fiscal Year 2012/2013 Budget Sessions. The motion carried on the following vote: AYES: Council Members Norton, Nicol, and Mayor Termini. NOES: Council Member Harlan. ABSENT: None. ABSTAIN: Council Member Storey.*

The Council took a five-minute break.

Council Member Storey returned to the dias.

B. Presentation of the 2012 Capitola Voter Survey conducted by Fairbank, Maslin, Maulin, Metz & Associates and consideration of a possible 2012 Revenue Ballot Initiative. [160-50/560-10]

Public Works Director Jesberg introduced this item. He stated that in February 2012 Fairbank, Maslin, Maulin, Metz & Associates (FM3) conducted a survey of Capitola voters regarding whether or not to include a measure for a permanent 0.25% Transactions and Use Tax as part of a Resolution requesting consolidation with the County and ordering the City's November 6, 2012 General Municipal Election.

Shakari Byerly, FM3 representative, provided a PowerPoint presentation of the key findings from the voter survey. She stated that telephone interviews were conducted with 300 registered voters in the City with a margin of sampling error +/- 5.6%. She stated that voter support was 61% for a 0.25% sales tax to help repair damage and rebuild the City after last year's flooding; this support was reduced to 59% when considerations of Governor Brown's proposed ballot measures were taken into account. She stated that support for a 2% increase in the transient occupancy tax was 55%; this support increased from approximately 7% to 62% when the respondents were asked if their opinion would change if the increase were regional.

Mayor Termini opened this item for public comment.

No public comment.

6. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

Mayor Termini closed this item for public comment.

ACTION: Motion made by Council Member Storey, seconded by Council Member Harlan, to direct staff to begin the process of including a measure for a permanent 0.25% Transactions and Use Tax to be administered by the State Board of Equalization as part of a Resolution requesting consolidation with the County and ordering the City's November 6, 2012 General Municipal 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. Receive report on damages sustained to the Capitola Wharf, and consideration of taking action to award contracts necessary to facilitate repairs as recommended by the Director of Public Works. [280-40/330-10]

Public Works Director Jesberg introduced this item. He stated that in February 2012 pilings on the Capitola Wharf were damaged, as well as a rupture of a gas main, resulting in the temporary closure of the wharf. He stated that staff recommends replacing two steel piles and constructing a permanent steel high-pressure natural gas line to service the restaurant at the end of the wharf. The Wharf Fund has \$40,000 budgeted in contract services for repair and maintenance work; the temporary gas line construction cost \$4,400 and additional funding may be necessary. He stated that staff recommends the Council award contracts to facilitate repairs and approve a budget amendment.

Council Member Storey asked if a floating dock could be used to replace the pilings. He suggesting obtaining an opinion from engineers (i.e., Corp of Engineers) for the proposed work.

ACTION: Motion made by Council Member Norton, seconded by Council Member Nicol, to approve the allocation of \$111,000 for the awarding of contracts necessary to complete the repairs sustained from damages to the Capitola Wharf, and to direct the Public Works Director to investigate the need for additional work required for the project. The motion carried on the following vote: **AYES:** Council Members Harlan, Norton, Nicol, and Mayor Termini. **NOES:** Council Member Storey. **ABSENT:** None. **ABSTAIN:** None.

D. Request for approval of a Special Event Permit for the Capitola Half Marathon to be held on Sunday, May 20, 2012, in Capitola Village. [1050-70]

Police Chief Card presented the report and reviewed the proposed route for the half marathon being sponsored by Lifestyle Escapes; the race is scheduled to travel through Capitola from 7:00 a.m. to 9:00 a.m.

Tom Bradley, Lifestyle Escapes, provided a brief review of the event.

Mayor Termini opened this item for public comment.

6. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

Molly Ording, 218 Monterey Avenue, stated concerns regarding the noise level and overflow of garbage resulting from the half marathon. **Tom Bradley, Lifestyle Escapes**, responded that they will not be using a PA system for the event.

Mayor Termini closed this item for public comment.

ACTION: Motion made by Council Member Storey, seconded by Council Member Norton, to approve a Special Event Permit for the Capitola Half Marathon to be held on Sunday, May 20, 2012 and to direct staff to determine the route. The motion unanimously carried on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

7. COUNCIL/STAFF COMMUNICATIONS (None provided)


8. ADJOURNMENT

Mayor Termini adjourned at 11:12 p.m. to the next Regular Meeting of the City Council to be held on Thursday, March 22, 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