

**CITY OF CAPITOLA
CITY COUNCIL**February 23, 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 Norton, Council Member Nicol, Council Member Storey, and Mayor Termini. Council Member Harlan 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 Govt. Code §54956.9:

- Three cases: 1) Noble Gulch Storm Drain Failure in Pacific Cove Mobile Home Park;
2) Pacific Cove Mobile Home Park Flooding and Closure;
3) Save the Plastic Bag Coalition.

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.

LIABILITY CLAIMS (Govt. Code §54956.95)

Claimant: Janice Jimenez

Agency claimed against: City of Capitola

Mayor Termini noted that there was no one in the audience; therefore, the City Council recessed at 5:35 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 7:05 p.m. on Thursday, February 23, 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, and Municipal Finance Consultant Bill Statler

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: None provided.

3. REPORT ON CLOSED SESSION [520-25]

City Attorney Barisone stated that City Council did not discuss the following existing litigation: (1) Kevin Calvert, D.D.S. and Pamela Calvert vs. the City of Capitola, et al.; (2) Katie Saldana vs. the City of Capitola, et al.; (3) Foremost Insurance Company vs. the City of Capitola, et al.; and (4) Truck Insurance vs. the City of Capitola, et al. **City Attorney Barisone** stated that the City Council did not discuss the anticipated litigation regarding the Noble Gulch Storm Drain Failure in Pacific Cove Mobile Home Park; City Council received a status report and discussed the Pacific Cove Mobile Home Park closure and relocation, and the Save the Plastic Bag Coalition; no reportable action was taken. **City Attorney Barisone** stated that City Council heard from **Administrative Services Director Murphy** and **City Manager Goldstein**, 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. **City Attorney Barisone** stated that the City Council did not discuss the liability claim of Janice Jimenez.

4. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda

Council Member Norton stated that Item 6.A. regarding funding the Community Grants will be moved to the March 8, 2012, City Council meeting and will include a full discussion of the grant funding program for Fiscal Year 2012/2013.

ACTION: Motion by Council Member Norton, seconded by Council Member Nicol, to move Item 6.A. regarding funding the Community Grants to the March 8, 2012 City Council meeting. The motion carried with the following vote: AYES: Council Members Harlan, Norton, Nicol, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: Council Member Storey.

B. Public Comments

The following people reported on the preliminary results of the Seniors Council of Santa Cruz and San Benito Counties older-adult needs assessment:

- **Jane Schwickerath, Seniors Council of Santa Cruz and San Benito Counties Board Member;**
- **Rita Winings, Area Agency on Aging Advisory Council Member;**
- **Sandra Williams, City's representative for Seniors Council of Santa Cruz and San Benito Counties, and the Santa Cruz County representative on the Advisory Council of the Area Agency on Aging;**
- **Darrel Johnson, Seniors Council of Santa Cruz and San Benito Counties Board Member.**

Angela Flynn stated the findings provided by Electric Power Research Institute regarding matters of health; she related these findings to magnetic fields created by SmartMeters. She urged the Council to enforce the SmartMeter moratorium.

Marilyn Garrett stated her reasoning for opposing the SmartMeters; she provided additional material to the City Council.

Rhonda Hayes expressed her disappointment in the City Council not continuing the SmartMeter moratorium.

C. Staff Comments

City Manager Goldstein reported from a recent Santa Cruz Regional 9-1-1 Board of Directors meeting. He stated that last year Capitola had a decrease of 1,200 emergency 911 calls (5.7% reduction).

4. ORAL COMMUNICATIONS (continued)

Council Member Storey, City's representative on the Santa Cruz Library Joint Powers Authority Board, stated that the Library Board meetings will be at different locations within the County so they are more accessible to the community. In addition, the Preliminary Fiscal Year 2012/2013 Budget and libraries hours will be discussed at the March 5, 2012 Library Board meeting.

Council Member Harlan stated that she attended a recent Tobacco Education Coalition meeting; the Coalition desires to work with local jurisdictions to develop programs for performing tobacco sales sting operations. She reported that smoking among minors is on the rise.

D. City Council/Treasurer Comments/Committee Reports (None provided)E. Committee Appointments1. **Receive the Mayor's appointment of Derek VanAlstine to the Architectural and Site Review Committee. [740-15]**

Mayor Termini appointed Derek VanAlstine to the Architectural and Site Review Committee to fill the Architect vacancy with term ending December 31, 2012.

F. Approval of Check Register Reports1. **Approval of City Check Register Reports dated February 3 and February 10, 2012. [300-10]**

ACTION: Motion by Council Member Norton, seconded by Council Member Storey, to approve the Check Register Reports dated February 3 and February 10, 2012. The motion carried on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None

5. CONSENT CALENDAR

Council Member Nicol requested that Item 5.E. regarding the approval of a letter from the Mayor of Capitola to the California Public Utilities Commission opposing the SmartMeter opt out one-time and monthly fees be pulled from the Consent Calendar.

A. **Deny liability claim of Janice Jimenez for an undetermined amount and forward it to the City's liability insurance carrier. [Claims Binder]**

5. CONSENT CALENDAR (continued)

ACTION: Motion by Council Member Storey, seconded by Council Member Nicol, to deny the liability claim of Janice Jimenez and forward it to the City's liability insurance carrier. The motion carried unanimously with the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

B. Consideration of approval of the City Council/Redevelopment Agency Minutes of the Joint Regular Meeting of January 26, 2012.

ACTION: Motion by Council Member Storey, seconded by Council Member Nicol, to approve the minutes of the Regular Joint Meeting of the City Council/Redevelopment Agency of January 26, 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.

C. Receive City Treasurer's Report for Month ended January 31, 2012 (Unaudited). [380-30]

ACTION: Motion by Council Member Storey, seconded by Council Member Nicol, to receive the City Treasurer's Report for Month ended January 31, 2012 (Unaudited). 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. Consideration of a Resolution accepting a Homeland Security Grant in the amount of \$9,910 and amending the Fiscal Year 2011/2012 General Fund Operating Budget by increasing both Revenues and Expenditures by \$9,910. [330-10]

ACTION: Motion by Council Member Storey, seconded by Council Member Nicol, to adopt Resolution No. 3911 accepting a Homeland Security Grant in the amount of \$9,910 and amending the Fiscal Year 2011/2012 General Fund Operating Budget by increasing both Revenues and Expenditures by \$9,910. The motion carried unanimously on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

E. Consideration of approving a letter from the Mayor to the California Public Utilities Commission opposing the SmartMeter opt out one-time and monthly fees. [565-30]

5. CONSENT CALENDAR (continued)

This item was pulled from the Consent Calendar for separate discussion.

E. Consideration of approving a letter from the Mayor to the California Public Utilities Commission opposing the SmartMeter opt-out one-time and monthly fees. [565-30]

Council Member Nicol stated his objection to a portion of the proposed draft letter from the Mayor to the California Public Utilities Commission (CPUC) opposing the SmartMeter opt-out fees where it states that “a free opt-out program should have been included in the SmartMeter program from the beginning, and customers should not have to pay now for the California Public Utilities Commission and PG&E’s failure to do so.” He believes that the statement is naïve because in the “real world” business customers are required to pay for these types of services.

Mayor Termini stated that if the CPUC had acted expeditiously the opt-out program would have been in place before they removed the analogue meters, and, therefore, residents would not be required to pay the \$75 to have the analogue meters re-installed.

Council Member Nicol responded that the \$75 charge is just one part of the opt-out program; the other part has to do with the cost of maintaining manual reading of the meters on a monthly basis. He requested that a section of the letter from the Mayor to the CPUC be re-worked to express the reality of the business world.

Council Member Storey stated that the proposed letter to CPUC reflects the end results of the Council’s consensus to not continue the moratorium but to make a strong statement opposing any opt-out fees based upon the exact reasons that were previously discussed. When the SmartMeters were to be installed, there was no credit given, even though PG&E was saving money on the meter readers. He stated that consumers should not have to pay for additional costs; the proposed letter is consistent with what the Council already decided.

Angela Flynn requested that the proposed letter be amended to include a rebate for those in the community who will not be using SmartMeters. She stated that she is being targeted, and her Internet connection is being tampered with. The PG&E fee is imposed as a punitive measure.

Peter Pethoe, Santa Cruz Hostel, stated his dissatisfaction with PG&E; there are other methods of reading meters.

Marilyn Garrett read an excerpt from a presentation by Alexander Binik at a recent CPUC meeting.

5. CONSENT CALENDAR (continued)

ACTION: Motion by Council Member Norton, seconded by Council Member Storey, was made to approve a letter from the Mayor to the California Public Utilities Commission opposing the SmartMeter opt-out one-time and monthly fees. The motion carried on the following vote: AYES: Council Members Harlan, Norton, Storey, and Mayor Termini. NOES: Council Member Nicol. ABSENT: None. ABSTAIN: None.

6. GENERAL GOVERNMENT/PUBLIC HEARINGS

A. Discussion regarding funding the Community Grants. [330-30]

This item has been moved to the March 8, 2012 City Council meeting.

B. Presentation regarding the Finance Advisory Committee's Long-Term City Revenue/Expenditure Projections Analysis (continued from the January 26, 2012 City Council Meeting). [330-40]

Bill Statler, Municipal Finance Consultant, stated that this item is a follow-up from the October 12, 2011 City Council/Redevelopment Agency and Finance Advisory Committee Joint Study Session. He presented steps to close the City's long-term funding gap and options/alternatives to create fiscal sustainability using existing resources. He stated that while the City's budget is fiscally balanced, it may not be from a service perspective. He stated that achieving a balanced budget has required service and capital improvement project reductions that may not serve the community well in the longer term. He stated that the Finance Advisory Committee report identified both expenditure reductions as revenue increase options, recognizing that before asking Council members to raise fees and asking voters to support tax increases, the City first needs to demonstrate that services are currently being provided in a cost-effective manner. He reviewed three ways of demonstrating that City services are currently being provided in a cost-effective manner: (1) Comprehensive organizational analysis; (2) compensation study; and (3) benchmark analysis. He suggested the Council consider economic development, improved cost recovery through service charges, and new/increased taxes as cost reduction strategies.

Council Member Nicol asked when the Council can expect the results from Fairbank, Maslin, Maullin, Metz and Associates (FM3) public opinion poll. (**City Manager Goldstein** replied that the results will be made available at the March 22, 2012 Council meeting).

Mayor Termini asked if the City has the resources to conduct a benchmark study without additional expenditures.

6. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

City Manager Goldstein responded that one-third of the funding remains from the contract between Bill Statler and the City and it can be used to fund a benchmark study to be completed by Mr. Statler.

Mayor Termini opened this item for public comment.

Christine Buechting, Finance Advisory Committee Chair, summarized the report from the City's Finance Advisory Committee. She stated the importance of doing the public opinion polling and of closing the City's long-term funding gap. The majority of the Finance Advisory Committee is in favor of the City doing a benchmark analysis to assess the fiscal performance of the City.

Mayor Termini closed this item for public comment.

Council discussion ensued regarding the selection of comparative cities for a benchmark study and the consideration of a sales tax measure.

ACTION: Motion was made by Council Member Norton, seconded by Council Member Harlan, to continue to closely evaluate cost saving opportunities, prepare a "benchmark study", develop user fee cost recovery policy subject to Council approval, analyze key revenues in accordance with the adopted user fee cost recovery policy, and make recommendations for changes as appropriate as part of the City's Fiscal Year 2012/2013 Budget process. 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. Presentation by City financial management. [330-40]

Bill Statler, Municipal Finance Consultant, proposed improvements based on effective use of the City's limited resources and effective Council policy and decision making. He recommended that the following be implemented to assist in streamlining the City's financial reporting: (1) Discontinue placing the register of warrants (check registers) on the City Council's agenda for ratification and shift to quarterly reports; (2) apply recommended changes to budget amendments pertaining to budget transfers and budget amendments; (3) streamline the accounting for Cash Flow Interfund Borrowings; (4) place all key policies and procedures in the City's Purchasing Ordinance; (5) limit the use of Resolutions to only those circumstances where they are truly needed.

Council Member Norton stated that he prefers keeping the check register as part of the City Council Agenda packet because it is a good way to review how the City is managing funds.

Mayor Termini stated that the City Council continues receiving the check register in the Council Agenda Packet; he suggested that a single line item be placed on the Council's agenda stating that it is included in the packet.

6. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

Council Member Storey recommended that the check register continue to be in the Council Agenda Packet to ensure transparency. He is in favor of considering raising the budgetary authority limits; however, there remain some clarification issues. He agrees with receiving better guidance regarding any purchasing conflicts in policies that the City may have. In addition, he would like to receive more information before supporting the staff's recommendation to limit the use of resolutions.

City Manager Goldstein stated that the use of resolutions for budget amendments and approval of contracts is not necessary; he suggested that a budget worksheet. In addition, resolutions for contract approvals are unnecessary, since the action is already spelled out in the contract. He suggested continuing to include the check register in the Council Agenda Packet as a transparency tool; however, it is not necessary to obtain Council's approval.

Bill Statler, Municipal Finance Consultant, stated that historically the check register needed to be approved by Council; however, in recent years it is considered as an accounting tool for internal control procedures and does not require Council approval.

City Manager Goldstein stated that the check register will remain in the Council Agenda Packet; however, staff will try something different to streamline the process and will continue to provide the transparency.

ACTION: Motion was made by Council Member Nicol, seconded by Council Member Harlan, to approve the following recommended financial management improvements: (1) Direct staff to draft an ordinance amending the Capitola Municipal Code pertaining to budget transfers and budget amendments; (2) streamline the accounting for Cash Flow Interfund Borrowings; (3) direct staff to draft an ordinance amending the Capitola Municipal Code regarding the City's Purchasing Policy; (4) direct staff to streamline and improve the City's financial reporting, and (5) limit the use of resolutions to only those circumstances where they are truly needed. The motion carried on the following vote: AYES: Council Members Harlan, Norton, Nicol, and Mayor Termini. NOES: Council Member Storey. ABSENT: None. ABSTAIN: None.

Council Member Norton requested that City Manager Goldstein return to Council to explain any public exposure issues with the proposed financial management changes.

6. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

D. Discussion regarding an Ordinance to reduce single-use plastic and paper carryout bags. [930-30]

Administrative Director Murphy provided a brief update of this item; in March 2010 the City Council supported a regional effort to implement an ordinance that would reduce the use of single-use plastic and paper carryout bags; last September, after the County of Santa Cruz adopted an ordinance to reduce the use of single-use plastic and paper carryout bags, the City Council conceptually supported a similar ordinance. She stated that shortly after the County adopted the ordinance, "Save the Plastic Bag Coalition" filed a lawsuit against the County seeking to invalidate the ordinance. She stated that the County successfully negotiated a settlement with the plaintiffs under which the County agreed to amend the ordinance to exempt restaurants, in exchange for plaintiff's agreement to dismiss its litigation and conduct an environmental impact report. She stated that staff will continue its public outreach campaign informing residents and businesses of the proposed ordinance.

Mayor Termini opened this item for public comment.

Marilyn Garrett stated that help is needed to stop the manufacture of the toxic plastic products.

Richard Amy supports the Council tabling this item until the lawsuit against the County of Santa Cruz is resolved.

Mayor Termini closed this item for public comment.

Council Member Norton suggested holding off in adopting a City ordinance until the City of Santa Cruz adopts a plastic bag ordinance.

Council Member Nicol suggested that the City not take any action on this item at this time to avoid spending money on legal fees and wait until the statewide legal struggle over banning plastic bags is resolved.

Council Member Storey stated that if the City proceeded on a negative declaration, the City would most likely be involved in a costly lawsuit. He suggested that the City work with local businesses to develop a campaign to eliminate plastic bags. He expressed his concern with requiring consumers to pay for reusable paper bags.

Motion was made by Council Member Norton, seconded by Mayor Termini, to direct staff to coincide with the City of Santa Cruz in the development of a plastic bag ordinance, and to seek direction from the City Council to take action in its adoption. The motion failed on the following vote: AYES: Council Member Norton and Mayor Termini. NOES: Council Members Harlan, Nicol, and Storey. ABSENT: None. ABSTAIN: None.

6. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

ACTION: Motion was made by Council Member Nicol, seconded by Council Member Storey, to continue this item to a future date when the City reaches an agreement that is both fiscally and environmentally responsible, and to direct staff to work with the local businesses to eliminate plastic bags wherever possible. The motion carried on the following vote: AYES: Council Members Harlan, Nicol, Storey and Mayor Termini. NOES: Council Member Norton. ABSENT: None. ABSTAIN: None.

Mayor Termini called for a five minute break.

- E. 809/815/819 Bay Avenue - Project Application #10-038: Presentation regarding the temporary relocation of the recycling facilities for Nob Hill Center and consideration of an Amendment to a Master Use Permit to permanently locate the facilities at the proposed site in the Community Commercial (CC) Zoning District; APN: 035-021-43. Property Owner: Bay Creek Properties. [730-10]**

Senior Planner Bane provided a brief history of this item; he stated that in November 2010 the City Council approved the temporary relocation of the recycling facility to a location adjacent to the CVS building for a six-month period, subject to conditions of approval and directed staff to continue to take noise readings at the site. In March 2011 the recycling facility was moved near the CVS building; staff took noise readings between March 2011 and October 2011. He noted that no noise complaints were received. He stated that the City's Zoning Code provides considerations for approving conditional use permits, specifically addressing small collection facilities in a commercial-industrial zone. He stated that staff is recommending that the City Council approve this application, subject to the conditions and findings, including a new condition requiring the installation of additional sound-deadening material in the transfer container.

Mayor Termini opened this item for public comment.

No public comment.

Mayor Termini closed this item for public comment.

ACTION: Motion was made by Council Member Nicol, seconded by Council Member Harlan, to approve amendment to the Master Use Permit (Application #10-038), subject to the Findings and Conditions (Attachment 4 of the agenda report), including a new condition requiring the installation of additional sound deadening material in the transfer container (Condition #2). The motion carried unanimously on the following vote: AYES: Council Members Harlan, Norton, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: None.

6. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

- F. **835 Bay Avenue - Project Application #12-001: Request for a Conditional Use Permit to install a model manufactured home in conjunction with an existing manufactured home sales business (Ideal Homes) in the Community Commercial (CC) Zoning District. Environmental Determination: Categorical Exemption Property Owner: Redtree Properties; Representative: Richard Emigh (APN: 035-011-03, 035-381-01). [730-10]**

Senior Planner Bane introduced this item. He stated that this request is for the approval of a 1,500 square-foot display of a modular home on the vacant property commonly known as the Grimes property. He stated that the Planning Commission recommended that the proposed use does not conform to the CC Zoning District standards and does not represent an appropriate gateway to the City.

Council Member Norton inquired if the proposal for the installation of a display of a manufactured home is only for temporary use. (**Senior Planner Bane** responded that the City only issues permanent Conditional Use Permits).

Richard Amy, 809/815/819 Bay Avenue, stated that after the Planning Commission's hearing was closed, one of the Commissioners stated that the proposal was illegal because it is an outdoor display of merchandise. He stated that the City's CC Zoning District allows for an outside display of merchandise for auto sales on 41st Avenue, and this proposal is similar. He understands that the City Council must follow the Planning Commission's recommendation, and the City Council sends the discussion back to the Planning Commission so the property owner is allowed to present arguments.

John Barss, Ideal Home Manufactured Housing Agent, asked if the proposal would be an illegal use pursuant to the City's CC Zoning requirement.

Mayor Termini stated that there is no specific reference in the City's CC Zoning District that allows for a model home.

Council Member Storey stated his concern regarding whether the Council can approve this proposal as a permitted use; he quoted from the City's Municipal Code CC Zoning District (Section 17.27.060(R)) which states that a Conditional Use Permit can be granted for: "Other uses similar to the above, not inconsistent with the general purposes of this chapter and the general plan, subject to approval by the city council upon the recommendation of the planning commission". He stated that this proposal is a conditional use under "other uses" upon recommendation of the Planning Commission; Council needs an analysis about how they get beyond the specific language in the City's Municipal Code.

6. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

Senior Planner Bane stated that his interpretation is that it needs to first be reviewed by the Planning Commission, and then the Planning Commission makes a recommendation to the City Council; the Council can take the Planning Commission recommendation or not.

City Attorney Barisone stated that the Planning Commission can make recommendations to the City Council; the City Council is the final decision-making body on any land-use issue.

Council Member Nicol asked if the City's Zoning Code speaks to the temporary display of merchandise. He stated that it appears that the Planning Commission's only objection to this proposal, besides legality, was visual blight.

Senior Planner Bane responded that the City's Zoning Code does speak to requiring a conditional use permit for outdoor displays; it does not refer to a temporary use. He stated some use permits allow outdoor displays in certain areas which are carried with the property.

City Manager Goldstein suggested focusing on the placement of a manufactured home for display in the CC District; Council could choose to approve the proposal or alternatively accept the Planning Commission's recommendation.

Mayor Termini opened this item for public comment.

No public comment.

Mayor Termini closed this item for public comment.

Council Member Storey stated that he recognizes the Planning Commission's concern in that the proposed location is at the gateway to the City.

Motion was made by Council Member Storey, seconded by Council Member Harlan, to send this item back to the Planning Commission for reconsideration, and to give the applicant an opportunity to provide an improved visual presentation of the proposal. The motion failed.

Senior Planner Bane stated that he does not think the Planning Commission will change its decision on this proposal.

Richard Amy (property owner) and John Barss (Ideal Home Manufactured Housing Agent) agreed to a one-year use of the property to display the manufactured home.

6. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

Council Member Norton recommended that the modular home be set 150 feet off the road to provide a good separation; the Architectural and Site Review Committee recommended a 100-foot setback. He suggested that Mr. Amy submit a landscape plan for the front of the modular home.

ACTION: *Substitute motion was made by Council Member Norton, seconded by Council Member Nicol, to approve the application with a 150-foot setback, the applicant be granted a one-year conditional use permit with the option of returning to Council for continued use, and a landscaping plan to be submitted subject to staff's approval. The motion carried on the following vote: AYES: Council Members Norton, Nicol, and Mayor Termini. NOES: Council Member Harlan and Council Member Storey. ABSENT: None. ABSTAIN: None.*

Council Member Norton said he would abstain from Item 5.G. because he is the representative for the project, and voting on this item would result in a conflict of interest. He removed himself from the dias.

G. **101 Grand Avenue – Project Application #11-120: Request for a 50- AR/R-1 (Automatic Review/Single-Family Residence) Zoning District. Environmental Determination: Categorical Exemption Property Owner: Papken S. Der-Torossian (APN: 036-114-12); Representative: Dennis Norton. [730-10]**

Senior Planner Bane stated that this item is regarding the Crest Apartments (19-unit apartment building) which is currently a legal non-conforming multi-family use in a single-family R-1 zoning. He stated that the City's Zoning Code (Section 17.72.060(C)) regulates nonconforming activities and structures on improved R-1 parcels; an amortization period has been set up where nonconforming activities in the R-1 Zones must be discontinued on June 26, 2019, or 50 years from the date the activity first became nonconforming, whichever is later.

Mayor Termini stated that this particular section of the City's Code applies to a nonconforming structure that falls in disrepair and remains nonconforming.

City Attorney Barisone stated that the purpose of this section of the City's Code implies that the property needs to ultimately conform to the zone district regulations; this is an attempt to amortize the property so that an owner cannot say they were deprived of the investment expectation. He stated the purpose of this section of the City's Code is to assure that by June 26, 2019 everything in the zone district conforms to the regulations, but Council has the ability to authorize an extension.

6. GENERAL GOVERNMENT/PUBLIC HEARINGS (continued)

Interim Community Services Director Westman stated that there was a lot of controversy when the City's 1979 General Plan was adopted, particularly about that some of the duplex units that are located on 44th Street and 46th Street. She stated some units were in extreme disrepair at the time, so as part of the adoption of the General Plan, they wanted the City to come up with a policy that would allow the units to either go away or be repaired.

Mayor Termini opened this item for public comment.

No public comment.

Mayor Termini closed this item for public comment.

ACTION: Motion was made by Council Member Nicol, seconded by Mayor Termini, to grant an extension approving an 80-year extension of the amortization period to allow the Crest Apartments to continue as a nonconforming use in the R-1 Zoning District. The motion carried on the following vote: AYES: Council Members Harlan, Nicol, Storey, and Mayor Termini. NOES: None. ABSENT: None. ABSTAIN: Council Member Norton.

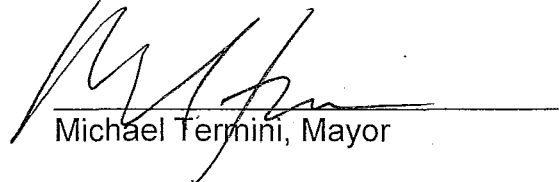
Council Member Norton returned to the dias.

7. COUNCIL/STAFF COMMUNICATIONS


Council Member Norton stated his concern regarding the number of medical and dental offices on 41st Avenue particularly in the CC zone. He suggested that a moratorium be put in place to not allow additional medical offices in this area.

8. ADJOURNMENT

Mayor Termini adjourned at 10:35 p.m. to the next Regular Meeting of the City Council to be held on Thursday, March 8, 2012, at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.


Michael Termini, Mayor

ATTEST:


Susan Sneddon, City Clerk

MINUTES WERE UNANIMOUSLY APPROVED ON APRIL 12, 2012