

**CITY OF CAPITOLA
CITY COUNCIL/REDEVELOPMENT AGENCY**

January 12, 2012
Capitola, California

MINUTES OF A REGULAR JOINT MEETING

5:00 P.M. – CLOSED SESSION – CITY MANAGER’S OFFICE

CALL TO ORDER

At 5:00 p.m. in the City Hall Council Chambers, **Mayor/Chairperson Termini** noted that all Council Members/Redevelopment Agency Directors were present. He 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:
Two cases: 1) Noble Gulch Storm Drain Failure in Pacific Cove Mobile Home Park
2) Pacific Cove Mobile Home Park Flooding and Closure

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Govt. Code §54956.9)

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]

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: Allstate Insurance, subrogee of Nazar Turkish Imports
Claimant: Allied Interstate, subrogee of Capitola Associates, LLC
Claimant: Brian Alexander
Agency claimed against: City of Capitola

PUBLIC EMPLOYEE PERFORMANCE EVALUATION (Government Code §54957)

Title: City Manager

Mayor/Chairperson Termini noted that there was no one in the audience; therefore, the City Council/Redevelopment Agency recessed at 5:05 p.m. to the Closed Session in the City Manager’s Office.

6:00 P.M. – OPEN SESSION

REGULAR JOINT MEETING OF
THE CAPITOLA CITY COUNCIL/REDEVELOPMENT AGENCY

CALL TO ORDER

Mayor/Chairperson Termini called the Regular Joint Meeting of the Capitola City Council/ Redevelopment Agency to order at 6:08 p.m. on Thursday, January 12, 2012, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

ROLL CALL AND PLEDGE OF ALLEGIANCE

PRESENT: Council Members/Directors Stephanie Harlan, Dennis Norton, Kirby Nicol, Sam Storey, and Mayor/Chairperson Michael Termini

ABSENT: None

OTHERS: City Treasurer Jacques Bertrand and Interim Redevelopment Agency Treasurer Jamie Goldstein

STAFF: City Manager/Executive Director Jamie Goldstein, City Attorney/General Counsel John Barisone, Interim Community Development Director/Deputy Executive Director Susan Westman, Public Works Director Steve Jesberg, Chief of Police Michael Card, and City Clerk/Secretary Susan Sneddon

PRESENTATIONS

Introduction of the new City Clerk, Susan Sneddon

1. **REPORT ON CLOSED SESSION [520-25]**

City Attorney Barisone stated that the items Council was scheduled to discuss in Closed Session are those listed on the Council's posted Closed Session Agenda. He reported that due to time constraints the Council discussed the anticipated litigation regarding Pacific Cove Mobile Home Park Flooding and Closure and the potential litigation against the City's first party insurance carrier regarding property damages the City sustained as a result of the March 2011 flood. No reportable action was taken.

2. **PUBLIC HEARING**

A. **Continued Public Hearing on Project Application #11-114, 426 Capitola Avenue, APN 035-141-33, to consider an application regarding a Coastal Development Permit, Relocation Impact Report (RIR), and Relocation Plan for the closure of Pacific Cove Mobile Home Park. The Capitola Planning Commission, at its meeting held December 1, 2011, determined the project is exempt from CEQA, and approved a Coastal Development for Closure of Park subject to findings and conditions, and determined the Relocation Impact Report is sufficient with conditions and measures to mitigate the adverse impacts on the change of use. Environmental Determination: Categorical Exemption. Property Owner: City of Capitola, Owner/filed 10/27/11 [730-10/260-10].**

2. PUBLIC HEARING (continued)

Council Member Storey asked that each resolution for this item be addressed individually. He does not support **Recommendation No. 3** regarding replacing Resolution 1950 (adopted in 1984) because the City had made a commitment that mobile homes used as a second home or temporary home be treated equally. In addition, he does not support **Recommendation No. 4** finding the RIR adequate; it does not sufficiently identify the fair market value of the coaches and does not sufficiently reduce the economic impact. He stated that there should be more discussion and negotiations regarding efforts to reduce the economic impact of the Park closure, and enable the homeowners to relocate. He added that homeowners should not be able to get full value before the flood and also be able to claim damages that occurred as a result of the flood. He does not support **Recommendation No. 4** finding that the RIR is inadequate because more work is needed on the RIR. He supports **Recommendation No. 5** directing staff to return to the Council on January 26, 2012 with a draft Financing Plan; however it should include a more detailed analysis.

Council Member Nicol stated that he supports all of the staff recommendations and is in favor of formulas that address the unique circumstances of the homeowners' properties.

Council Member Harlan stated that she supports all of the staff recommendations. The City needs to move forward with the closure of the Park due to its known liability. She suggested increasing the value of each mobile home in place.

Council Member Norton stated that he supports all of the staff recommendations. He feels differently for those who have secondary mobile homes in the Park because they have enjoyed the lowest rent in the community. He suggested adding an additional recommendation that would direct the City Manager to negotiate with individual homeowners.

Mayor Termini asked how many current residents were residing there when the City purchased the Park. (**City Manager Goldstein** responded that there are probably three to five residents still residing in the Park). **Mayor Termini** stated his concern in allowing mobile homes in the affected area because of potential future flooding.

City Council took the following actions:

1. ***Motion by Council Member Norton, seconded by Council Member Harlan, to find the project is exempt from CEQA as it does not involve an increase in the intensity of use or new development (CEQA Guidelines 15301 Existing Facilities). The motion was unanimously carried.***

2. PUBLIC HEARING (continued)

2. *Motion by Council Member Norton, seconded by Council Member Harlan, to adopt Resolution No. 3902 approving the Coastal Development Permit and demonstrating consistency with the Mello Act for the closure of Pacific Cove Mobile Home Park, subject to specific findings and conditions. The motion was unanimously carried.*
3. *Motion by Council Member Norton, seconded by Council Member Nicol, to adopt Resolution No. 3903 the proposed resolution replacing Resolution 1950, and clarifying that only second home owners who owned coaches in the park prior to the City's acquisition of Pacific Cove are entitled to the same benefits as full time residents. The motion carried on the following roll call vote: AYES: Council Members Harlan, Norton, Nicol, and Mayor Termini. NOES: Council Member Storey. ABSENT: None. ABSTAIN:None.*
4. *Motion by Council Member Norton, seconded by Council Member Nicol, to adopt Resolution No. 3904 with conditions finding that the RIR is sufficient pending the application of measures not exceeding the reasonable costs of relocation to mitigate the adverse impacts of the change of use on eligible mobile home residents. The motion carried on the following roll call vote: AYES: Council Members Harlan, Norton, Nicol, and Mayor Termini. NOES: Council Member Storey. ABSENT: None. ABSTAIN: None.*
5. *Motion by Council Member Nicol, seconded by Council Member Norton, to direct staff to return to City Council on January 26, 2012 with a draft Financing Plan, a draft six-month written notice of termination of tenancy, and a contract for relocation services. The motion was unanimously carried.*

Mayor Termini stated that the following is an additional recommendation (Recommendation No. 6) to designate a staff member to negotiate with the Park residents regarding the closure of Pacific Cove Mobile Home Park.

6. *Motion by Council Member Norton, seconded by Council Member Nicol, to direct the city manager to formulate a negotiating plan regarding the closure of Pacific Cove Mobile Home Park with individual residents. The motion unanimously carried.*

City Attorney Barisone stated that he agrees with Council Member Storey's recommendation to revise the adopted Resolution (Resolution No. 3902) regarding approving the Coastal Development Permit and demonstrating consistency with the Mello Act for the closure of Pacific Cove Mobile Home Park to address the elimination of the Redevelopment Agency through the California Supreme Court decision as another basis for infeasibility. (Mayor Termini agreed).

The Council took a short break at 7:18 PM and reconvened at 7:26 PM.

3. ORAL COMMUNICATIONS

A. Public Comments:

The following members of the public addressed the City Council pertaining to their ongoing concerns regarding the PG&E SmartMeters:

Karen Nevis, Capitola Art & Cultural Commission member, stated why she desires the City's SmartMeter Ordinance should remain in effect.

Marilyn Garrett spoke against the SmartMeters and submitted written material to Council.

B. Staff Comments:

None provided

C. City Council/RDA Director/Treasurer Comments/Committee Reports

Council Member Nicol, the City's representative on the Santa Cruz County Regional Transportation Commission (SCCRTC), stated that on Highway 1, between Soquel Avenue and Morrissey Boulevard, auxiliary lane work will begin next week; the public may attend a meeting at DeLaVeaga Elementary School on Thursday, January 19, at 7 PM.

Council Member Storey, the City's representative on the Santa Cruz Library Joint Powers Board, thanked Barbara Gorson (Capitola resident), who recently resigned as President on the Santa Cruz Library Joint Powers Board; he welcomed Dick English as the new incoming President [230-10].

Council Member Harlan, the City's representative on the Santa Cruz County Integrated Waste Management Local Task Force, stated that on Saturday, January 15, from 10 AM to 12 Noon there will be a Soquel Creek clean up near the Rispin Mansion and Perry Park. She provided an update from the December 1, 2011, Integrated Waste Management Local Task Force meeting when the proposed waste management development (Zero Waste EcoPark) was discussed. She stated that the County has been working with HDR Engineering on plans to develop the proposed EcoPark to be located at the Buena Vista Landfill. She stated that on September 20, 2011, the Santa Cruz County Board of Supervisors, in an effort to reduce litter and protect our local environment, enacted an ordinance relating to the reduction of single-use plastic bags. She stated that there has been a lawsuit by the Save the Plastic Bag Coalition; the County has requested a dismissal due to upcoming settlement hearings. She also provided an update on the County's proposed ordinance to establish minimum standards for the recycling of electronic waste; it would be mandated that the e-waste recycler receive a certificate. She stated that she received an update on the County's Polystyrene Ordinance, and the Fluorescent Retail Take-it-Back Program [930-55].

3. C. ORAL COMMUNICATIONS (continued)

Council Member Norton requested that in March 2012 a representative from the Santa Cruz County Regional Transportation Commission present information to Council regarding the Capitola corridor. (**Council Member Nicol** stated he will coordinate a presentation with SCRTC). **Council Member Norton** requested that the City Council consider a continuance of the ban on PG&E SmartMeters.

D. City Council/RDA Director/Treasurer Comments/Committee Reports

Mayor Termini stated that he requested a representative from the Soquel Creek Water District present the proposed Desalination Project Environmental Impact Report to City Council in April 2012. He requested the Public Works staff remove the table and chairs located on the sidewalk adjacent to the Silver Crest Apartments where some residents have set up a smoking area.

Interim Community Development Director/Deputy Executive Director Westman requested additional time in dealing with this issue as the Community Development Department staff is working towards a resolution.

Mayor Termini provided an update on the 41st Avenue Art Project to be held in March 2012; the City's Art & Cultural Commission will be reviewing the final art selections in February 2012.

E. Committee Appointments: Nomination by the Mayor of one Council Member to serve on the Capitola Public Safety and Community Service Foundation. [485-10]

Mayor Termini stated that pursuant to the Public Safety and Community Service Foundation (CPCSF) By-laws the Mayor or an appointee be appointed to the CPCSF Board.

Motion by Council Member Norton, seconded by Council Member Storey, to appoint Mayor Termini to the Public Safety and Community Service Foundation Board. The motion was unanimously carried.

F. Approval of Check Register Reports

1. City: Approval of City Check Register Reports dated December 2, 9, 16 and 23, 2011. [300-10]

Motion by Council Member Norton, seconded by Council Member Storey, to approve the Check Register Reports dated December 2, 9, 16 and 23, 2011, including checks numbered 68184 through 68282 in the amount of \$297,204.36, checks numbered 68283 through 68333 in the amount of \$84,509.96, checks numbered 68334 through 68396 in the amount of \$60,200.11, and checks numbered 68397 through 68508 in the amount of \$163,237.76, respectively; and payroll disbursements for the December 9, 2011, payroll in the amount of \$154,679.05, and the December 23, 2011, payroll in the amount of \$203,239.95, for a Grand Total of \$963,071.18, as submitted. The motion was unanimously carried.

3. F. ORAL COMMUNICATIONS (continued)

2. RDA: Approval of Redevelopment Agency Check Register Reports dated December 2, 16 and 23, 2011. [760-25]

Motion by Director Norton seconded by Director Storey to approve the Redevelopment Agency Check Register Reports dated December 2, 16 and 23, 2011, including checks numbered 3012 through 3013 in the amount of \$10,347.04, checks numbered 3014 through 3017 in the amount of \$29,640.50, and check numbered 3018 through 3018 in the amount of \$152,520.00, respectively; for a Grand Total of \$192,507.54, as submitted. The motion was unanimously carried.

4. CONSENT CALENDAR

- A. Approve reading by title of all Ordinances and Resolutions and declare that said titles which appear on the Public Agenda shall be determined to have been read by title and further reading waived.
Action: Approved the reading.
- B. City/RDA: Approve minutes of the Regular Joint Meetings of the City Council/Redevelopment Agency of November 22, 2011, and December 8, 2011.
Action: Minutes were approved.
- C. Deny liability claims and forward to the City's liability insurance carrier:
1. Allstate Insurance, subrogee of Nazar Turkish Imports: \$26,582;
 2. Allied Interstate, subrogee of Capitola Associates, LLC: undetermined amount;
 3. Brian Alexander: undetermined amount.
- Action: Liability Claims denied [Claims Binder].*
- D. City/RDA: Receive the Comprehensive Annual Financial Report for the City of Capitola for June 30, 2011.
Action: Received and Filed [310-20]
- E. City/RDA: Receive Annual Capitola Redevelopment Agency Fiscal Year
Action: Received and Filed [760-25]
- F. Receive City Treasurer's Report for Month ended November 30, 2011 (Unaudited).
Action: Received and Filed [380-30]
- G. Consideration of the adoption of Resolution amending the Fiscal Year 2011/2012 General Fund and Supplemental Law Enforcement Services Fund (SLESF) Budgets by \$100,000 to reflect a Total State Grant of \$100,000.
Action: Approved Resolution No. 3905 [330-05/330-10]

4. CONSENT CALENDAR (continued)

H. Consideration of an Employment Agreement for the Finance Director, Tori Hannah; and authorize the City Manager to execute the agreement.

Action: Approved Agreement Approve Agreement [600-10/500-10 A/C: Hannah, Tori]

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

City Manager Goldstein introduced the new Finance Director, Tori Hannah.

5. OTHER BUSINESS

A. Consideration of a Resolution electing the City of Capitola to serve as both the Successor Agency and Successor Housing Agency to the former Redevelopment Agency, and directing staff to file the appropriate notification of these elections in accordance with the Dissolution Act. [780-10/790-10]

Interim Community Development Director/Deputy Executive Director Westman introduced this item and provided a brief summary of the state's decision in December 2011 to eliminate redevelopment agencies (RDA); therefore, all redevelopment agencies in California will be ending on February 1, 2012. She stated that staff is recommending the City take on the role as the successor agency. She recommended that at the January 26, 2012, Council meeting a discussion take place regarding various contracts which are invalid under the new law (Example: the City's RDA funding contract with the Capitola Chamber of Commerce).

Mayor Termini requested that staff elaborate on the composition of the Oversight board for the successor agency.

Interim Community Development Director/Deputy Executive Director Westman responded that the RDA has adopted a list of long-term obligations, which staff believes should continue to be paid. The state will put in place an Oversight board for each agency, which will consist of two members from the Board of Supervisors, a member from the County Office of Education, a member from Cabrillo College, a public member to be appointed by the Board of Supervisors, the Mayor of the jurisdiction from which the agency was located, a representative from the largest taxing entity (Central Fire District), and one former employee of the RDA. She stated that the Oversight board will be appointed in May 2012.

Council Member Storey asked if the Oversight board will have the authority to not meet the funding obligations that the City has accepted.

Interim Community Development Director/Deputy Executive Director Westman responded that the Oversight board will have the authority to decide whether to continue with the RDA's previous contractual obligations.

5. OTHER BUSINESS (Continued)

Motion by Council Member Nicol, seconded by Council Member Storey, adopting Resolution No. 3906 electing the City of Capitola to serve as both the Successor Agency and Successor Housing Agency to the former Redevelopment Agency and directing staff to file the appropriate notification of these elections in accordance with the Dissolution Act. Motion unanimously carried.

B. Consideration of Budget Calendar for Fiscal Year 2012/2013. [330-05]

Motion by Council Member Storey, seconded by Council Member Nicol, approving the Budget Calendar for Fiscal Year 2012/2013. Motion unanimously carried.

C. Consideration of the approval of the 5th Amendment with JFS, Inc., DBA Capitola Boat and Bait for the Wharf Lease and Mooring Concession Agreement. [280-25/500-10 A/C: JFS, Inc.]

Motion by Council Member Harlan, second by Council Member Nicol, to (1) authorize the 5th amendment to the Wharf Lease and Mooring Concession Agreement with JFS, Inc., for one year commencing on January 1, 2012, through December 31, 2012, with an option to renew for one additional year; and (2) waive rent except utility bills for the months of January, February, and March 2012, as submitted. Motion unanimously carried.

D. Designation of two Council Members to sit on the February 3, 2012, interview panel for the recruitment of the Police Chief. [650-05]

Motion by Council Member Norton, seconded by Council Member Harlan, to designate Council Member Nicol and Mayor Termini to sit on the February 3, 2012 interview panel for the recruitment of the Police Chief. Motion was unanimously carried.

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

6. COUNCIL/RDA DIRECTOR/STAFF COMMUNICATIONS (None provided)

7. ADJOURNMENT

Mayor Termini adjourned at 8:09 PM. to the next Regular Joint Meeting of the City Council/ Redevelopment Agency to be held on Thursday, January 26, 2012, at 7:00 PM, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.



Michael Termini, Mayor
Redevelopment Agency Chairperson

ATTEST:



Susan Sneddon, CMC
Susan Sneddon, City Clerk
Redevelopment Agency Secretary

MINUTES WERE UNANIMOUSLY APPROVED ON FEBRUARY 9, 2012